660.

SUPREME COURT OF THE UNITED STATES.

No. 63.

MATTHEW HOBSON, APPELLLANT,

vs.

THE HEIRS OF DUNCAN McARTHUR, DECEASED.

ON APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF OHIO.

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S. D. Langtree, Print.

Pleas begun and held at the court house, in the city of Columbus, on Monday, the thirteenth day of July, being the second Monday of the same month in the year of our Lord one thousand eight hundred and thirty-five, and of the American Independence the sixtieth, before the Honorable John McLean and Humphrey H. Leavitt, judges of the circuit court of the United States in and for the seventh circuit and district of Ohio.

DUNCAN MCARTHUR, Compt.
&
MATTHEW HOBSON, Respt.
} In Chancery.

Be it remembered, that heretofore, to wit: at the December term of said court, in the year of our Lord one thousand eight hundred and thirty one, came the defendant, Matthew Hobson, by Mr. Bond, his counsel, and filed in court here the transcript of the proceedings of a cause lately pending in the supreme court of the State of Ohio, in and for the county of Ross, which transcript and proceedings are in the words and figures following, to wit:

Pleas held at the court house, in the town of Chillicothe, for the county of Ross, before the Honorable Peter Hitchcock, chief judge, and the Honorable John C. Wright, judge of the supreme court of the State of Ohio, on Saturday, the third day of December, in the year of our Lord, one thousand eight hundred and thirty-one, and of this State the 30th.

DUNCAN MCARTHUR
vs.
MATTHEW HOBSON.

Be it remembered, that heretofore, to wit: on the twenty-first day of September, in the year of our Lord, one thousand eight hundred and thirty, Duncan McArthur, by Benjamin G. Leonard, his counsel, filed in the clerk's office of the supreme court of the State of Ohio, for the county of Ross, his certain bill in chancery against Matthew Hobson, which said bill, together with the allowance of an injunction, reads in the words following, to wit:

To the Honorable the Judges of the Supreme Court in and for the county of Ross, and State of Ohio, in chancery sitting:

Humbly complaining, your orator, Duncan McArthur, of the county of Ross, and State of Ohio, sheweth unto your honors that

on the tenth day of November, in the year one thousand eight hundred and ten, one Matthew Hobson, then of the State of Georgia, nd now of the State of Alabama, whom your orator prays may be made defendant to this bill of complaint, together with one John Hobson, entered into certain articles of agreement, (a copy of which hereto annexed and marked A,) is prayed to be taken and held as a part of this bill, in which articles of agreement it is recited, that, whereas, eleven thousand six hundred and sixty-six and two thirds acres were sent to Col. Richard Anderson's office on or about the first inst. by Col. Elias Laugham in the name and for the use of the said John and Matthew Hobson, with entries for the same; thereby meaning that Virginia military land warrants for services in the Virginia line on continental establishment for 11,666 2-3 acres of land, had been sent to the office of said Anderson, who then was the principal surveyor for the Virginia military district in the State of Ohio, accompanied with entries in which the same warrants were to be entered in the name and for the use of said Hobson; and your orator avers that at or before the time of entering into the agreement aforesaid, Virginia military land warrants for services rendered in the Virginia line on continental establishment for 11,666 2-3 acres, together with entries accompanying the same, had been sent by the said Laugham to the office of the said Anderson, who was then the principal surveyor of the Virginia military district in the State of Ohio, for the purpose of being located in the same entries within the said district, in the name and for the use of said Hobsons, and your orator refers to copies of said entries, (marked B,) and prays that the same may be taken and held as a part of this bill of complaint. Your orator shews that by the said articles of agreement, said McArthur, this complainant, was to withdraw 10,000 acres of the said 11, 66 2-3 entered and located as aforesaid, and to re-locate the same elsewhere in the name of the said John and Matthew, and it was further agreed that the said land from which the ten thousand acres was to be withdrawn as located by the said Laugham, and also the land so to be re-located by this complainant, should be valued by two disinterested men, one to be chosen by each of the contracting parties, and if the said two men could not agree on the price of the said lands or any part thereof, the said two men were to choose a third man, who, together with the other two, should agree on the price of the said land, and the said Hobson's were to have so much of said lands so to be re-located by said McArthur, as would amount to the value of the land from which said warrants should be removed: and also land to the value of two thousand dollars in addition to the value of the ten thousand acres, where the same was entered by the said Laugham, and the said Hobson's did, by the said articles of agreement, obligate themselves, their heirs, executors, and administrators, separately and jointly, to convey unto the said McArthur, his heirs, &c., all and singular, the ballance of the said ten thousand acres, after deducting therefrom such quantity as

by valuation as aforesaid, would amount to the value of the said ten thousand acres, where the same was first located by the said Laugham, and also land to the value of two thousand dollars as aforesaid; and it was further agreed by the said articles, that if the land so located by said McArthur should not be valued to the amount of the land so located by said Laugham, and also two thousand dollars, then and in that case said McArthur was to convey the said Hobson's, their heirs, &c., other lands to the amount of said valuation with the value of two thousand dollars in land as aforesaid, said Hobson's to pay all office fees and surveying expenses. Said valuation to take place on or before the expiration of three years from the date of the articles of agreement. Hobson's to pay all taxes on said lands until divided, then said McArthur to pay to said Hobson's his proportionable part of said taxes; and it was further agreed before signing the said articles, that the division of said land should take place forthwith after the titles were considered secure, and that the lands located by Laugham were to be picked as he upon his honor intended.

Your orator further states, that on the 24th November, in the year eighteen hundred and eighteen, the said John Hobson having for a valuable consideration sold and assigned unto the said Duncan McArthur, this complainant, all his right and title to the one-half (*five thousand acres*) of the land warrants located by him, the said McArthur, under the said agreement, did, as to himself and the said McArthur, cancel and annul the said agreement; and your orator further states, that in pursuance of said agreement, he did, after the same was made and entered into, withdraw ten thousand acres of the eleven thousand six hundred and sixty-six and two-thirds acres entered as aforesaid by Laugham, agreeable to the said Laugham's directions, as to which entries and parts of entries should be withdrawn, and did locate them in the entries and at the times specified in the copies of the same entries hereto annexed, marked (C) prayed to be taken and considered a part of this bill of complaint, and that the said entries have been duly surveyed. Copies of the surveys whereof are hereto annexed marked (D) and prayed to be taken as parts of this bill, which contained the dates of the surveys and the times when recorded.

Your orator further states, that on the 30th day of July, 1830, your orator appointed his son, Thomas J. McArthur, his attorney to transact and perform the duties and powers specified and contained in the power of attorney, a copy of which, marked (E,) is hereto annexed, and prayed to be taken and held as a part of this bill of complaint; and the said Thomas J. did, in pursuance of the said power, on the part of this complainant, appoint one William Vance, a disinterested man, to value the said ten thousand acres of land, from which the said McArthur, this complainant, withdrew the said warrants, and otherwise to proceed in the premises relative to the valuation of the said land, and all other matters as is specified and contained in the said articles of agreement; and for the same

purpose, the said Mathew Hobson appointed one Mathew Bonner, all which was done on or about the day of August, 1830.

Your orator further states, that the said William Vance and Mathew Bonner, on or about the day of 1830, proceeded to view the lands so located by Elias Laugham, to wit, the ten thousand acres withdrawn by this complainant, and did find and ascertain that they could not agree on the value of some part of the said land, and did, therefore, select Lyne Starling as a third man to make appraisement pursuant to the terms of said agreement, who, together with the said Vance and Bonner, did, on the 10th day of September, 1830, agree upon the price of the price and valuation of the said lands located by Elias Laugham; which valuation is as set forth in the annexed document, marked (F,) prayed to be taken and held as part of this bill of complaint.

Your orator further states and charges, that after the valuation made as aforesaid, your orator, by his agent and attorney as aforesaid, Thomas J., offered and proposed to the said Mathew Hobson to select and point out to the said appraisers, Vance, Starling, and Bonner, for their appraisement and valuation, such parts of the said entries made by the said McArthur on the said withdrawn warrants, as would amount to a sufficient quantity to satisfy the claim of the said M. Hobson on the appraisement and valuation aforesaid made by the said Vance, Bonner, and Starling; but the said Matthew Hobson altogether refused and declined that the appraisers should proceed in that mode, and insisted that it was his right, and that the appraisers should value the whole of the lands so entered as aforesaid by this complainant, on the warrants withdrawn as aforesaid, and that he was entitled to an interest in the whole of the said entries so made by McArthur as aforesaid, proportional to the valuation, made as aforesaid by the said Bonner, Vance, and Starling, of the lands entered by Col. Elias Laugham, and the valuation to be made by the said appraisers of the land so entered as aforesaid by this complainant.

And your orator further charges, that afterwards, on the 18th of September, 1830, the said Vance, Bonner, and Starling, did proceed to view and examine the lands re-located by the said McArthur in pursuance of the said agreement; and that the said Bonner and Starling, after viewing the said lands, did agree to value and appraise the same in the manner set forth and specified in the annexed document marked (F,) which is prayed to be taken and considered as a part of this bill, he, the said Vance, not agreeing, but disagreeing, to the said valuation and appraisement last aforesaid.

Your orator, therefore, charges and states that the said valuation and appraisement has not been made in pursuance and in conformity to the said agreement in this; that the said three appraisers have not all agreed as to the value of the said lands so re-located by your orator, but only two have agreed thereto, whereas your orator insists that, by the true construction of the said agreement, all three of the said appraisers were to agree as to the price and

valuation of the said lands; and also in this, that the said appraisers ought to have valued lands to the amount of $18,500, whereas they have valued two whole surveys, amounting, in all, to $36,250. In this also, that they have valued the two last mentioned surveys without the improvements, whereas they ought to have valued the same, together with the improvements, as the said Mathew Hobson would be entitled to the same, together with all improvements.

And your orator further charges, that the said appraisements have not been made in conformity to the said agreement; in this also, that the said appraisers were not sworn, nor was any oath administered to them faithfully to administer and discharge the trust entrusted to them.

Your orator also charges and states that the said Matthew Bonner was not, and is not, a disinterested and impartial man; and that, in making the appraisement of the said surveys so made by this complainant, the said Bonner was influenced by fraudulent and unfair views; and that the appraisement so made as aforesaid, by the said Bonner and Starling, is grossly low, unreasonable, partial, and unjust, the property being worth much more than the same is appraised at by the said appraisers—this complainant averring that survey No. 6923 and 6926 is worth, at the lowest estimate, three dollars per acre on average, without the improvement; and survey 6922, eight dollars per acre on an average, also without the improvement, and this complainant is willing to pay at that rate for the same; and your orator avers that the said surveys have been appraised at a higher rate than the appraisement made by the said Bonner and Starling, under an act of Congress passed in the year 1824, the survey, No. 6923 and 6926, having then been appraised at two dollars per acre, and survey, No. 6922, at six dollars per acre, which your orator avers was a low appraisement, and that the said last mentioned surveys have much appreciated in value since that time; and that by an act of the Congress of the United States passed the 26th day of May, 1830, it is provided that the said surveys shall be paid for by the government at the appraisement of 1824 aforesaid, with interest thereon from the 4th of March, 1825, which amounts to upwards of $5,000 more than the value of the lands entered by Laugham for said Matthew Hobson. Your orator avers that he, this complainant, has been compelled to test the validity of the said entries and surveys so made by him in the name of John and Mathew Hobson, by various suits, which he has prosecuted; and that the said Mathew Bonner has been actively employed in aiding and assisting in the defence, and resisting the said suits or claims at law; and your complainant has, for a number of years past, had his claims, founded upon the said entries and surveys, before the Congress of the United States, for the purpose of procuring an act of that body settling and adjusting the same; and that the said Bonner has been actively employed and engaged in resisting his said claim before Congress, and for the purpose of perverting the passage of any such act, the said Bonner made, and

certified as county surveyor of Ross county, which was laid before the Congress of the United States, a map of the head waters of the Little Miami and Scioto rivers, misrepresenting and incorrectly laying down the same.

Your orator further charges, that he has offered and proposed to the said Mathew Hobson, to wit, on the 18th September, 1830, either the one or the other of the following alternatives: he, your orator, has offered and tendered to pay to him, the said Matthew Hobson, the sum of $9,250 dollars, being the one-half of the appraised value of the said lands so located as aforesaid by the said Laugham, and the sum of one thousand dollars in full satisfaction and discharge of the claim of the said Mathew Hobson, which he, the said Hobson, altogether declined taking and receiving in satisfaction of the said claim.

He has further offered, proposed and tendered to the said M. Hobson to appoint other appraisers under the said articles of agreement to appraise the whole of said lands, or that part thereof relocated by this complainant, as to the valuation and appraisement of which the said appraisers Vance, Bonner and Starling, could not agree upon, or to re-appoint appraisers generally, who should proceed according to the articles of agreement, and make such appraisement in the premises as by the true construction of the said articles they were or should be authorized to make under the circumstances of the present case, all of which offers and tenders so made as aforesaid, by this complainant, the said M. Hobson hath altogether refused and declined to accept, and refuses to appoint any other appraisers on his part to appraise the said land, although this complainant is ready and willing, and now at this time, offers to appoint an appraiser on his part.

Your orator further charges, that he has offered, proposed and tendered to the said Mathew Hobson, to set off survey No. 6923 and 6926, for 2943 acres, to be appraised by the said appraisers, according to the terms of the article of agreement, and also to set off from the northerly or upper end of survey, No. 6922, of 6220 acres, so much of the said survey as will, together with the survey last aforesaid, amount to $18,500. The said surveys, or so much of the same as is necessary, to be appraised by the said appraisers according to the terms of said agreement, and the half of the same, amounting in the whole in value to the sum of $18,500, to be held, received and accepted by the said M. Hobson, in full satisfaction and discharge of the said agreement, which offer and tender the said M. Hobson declined accepting; and, on his part, further refuses to set off from said surveys any part for himself.

Your orator further charges and states, that the said M. Hobson is fully satisfied with the titles to said entries and surveys so made by this complainant, and the same are considered secure.

And your orator further avers, that he has requested the said Hobson, to wit, on the 18th September, 1830, to accept and receive some one of the offers and tenders so made as aforesaid, by your

orator, and thereupon to assigne and convey to your orator his, the said Mathew Hobson's interest in the residue of the said entries and surveys, so made by complainant, in the name of John and Mathew Hobson, and of the warrants on which the same are founded, after there was deducted therefrom a sufficient amount to satisfy the claim of the said Hobson, to wit, nine thousand two hundred and fifty dollars, which he has declined to do; all which acts and doings of the said Mathew Hobson are contrary to equity and good faith, and maifestly to the injury of your orator, and in violation of his said agreement and understanding. And whereas, by an act of Congress, passed on the 26th of May, 1830, provisions is made for the payment and settlement of the conflicting claims between the United States and your orator, and as your orator is informed, and believes, that said Mathew Hobson, disregarding his said agreement so as aforesaid made with your orator, is giving it out in speeches that he intends applying to the Government for the whole appraised value, (by the commissioners of the Government in 1824,) and interest of the 5000 acres, so entered by your orator in the name of the said Mathew Hobson, over and above the said partial and unjust appraisement made by the two appraisers (Starling and Bonner) as aforesaid; whereas, in truth and in fact, your orator charges, that said Mathew Hobson is only entitled to retain from your orator an amount equal to the value of his proportion of the barren lands, entered by Elias Laugham, from which said warrants were withdrawn, and one thousand dollars in addition; and as your orator, by said acts and refusal of said Hobson, to settle and adjust their agreement aforesaid, is unable to realise the benefits of said act of Congress last referred to, and to compromise the controversy between himself and the General Government in relation to the lands specified as aforesaid, and as your orator is remediless in the premises at common law, and can only be relieved in this honorable court, by its aid, where matters of agreement and their specific performance are properly adjudicated and relieved.

Now, may it please your honors, the premises considered, to order, adjudge and decree, that the said Mathew Hobson may be enjoined, by the writ of this honorable court, from claiming and receiving through himself or any assignee or agent, from the treasury of the United States, any part of the monies appropriated by the act of Congress last referred to, for the settlement and compromise of the conflicting land claims between the United States and your orator under said warrants and surveys, until the same is heard and adjudicated upon by this honorable court; and that your honors will grant further decree, and order that said Hobson may, by the decree of this court, be ordered and adjudged to receive either of the terms of payment, made by your orator to him, in the fulfilment of the contract entered into between your orator and said Mathew, according to its terms, spirit and equitable understanding, and that he may be compelled to perform the said agreement, specifically on his part, as your orator has proffered and ten-

dered so to do on his part, and such other and further relief as to your honors may seem meet and just, according to the facts of the case, and as in duty bound.

DUNCAN McARTHUR.

Sworn to and subscribed before me, this 21st day of September, 1830.

H. BRUSH,
Judge Sup. Court of Ohio.

Upon which said bill is the following allowance of an injunction:

The injunction prayed for in the within bill is allowed.

H. BRUSH,
Judge Sup. Court, Ohio.

September 21st, 1830.

The following are the exhibits referred to in the aforegoing bill, and prayed to be taken as part thereof, to wit:

Exhibit A.

It is hereby agreed upon between Duncan McArthur, of Ross county, and State of Ohio, of the one part, and John Hobson, of Jackson county, and State of Georgia, and Mathew Hobson, of Oglethorpe county, and State of Georgia aforesaid, on the other part, witnesseth, that, whereas, eleven thousand six hundred sixty-six and 2-3 acres were sent to Col. Richard C. Anderson's office, on or about the first instant, by Col. Elias Laugham, in the name and for the use of said John and Mathew Hobson, with entries for the same. Now be it known, that it is hereby understood and agreed upon by the contracting parties, that said McArthur is to withdraw ten thousand acres of the 11666 2-3 acres, and to relocate the said ten thousand acres elsewhere, in the name of the said John and Mathew; and it is further agreed upon by the contracting parties, that the land from which the said ten thousand acres is to be withdrawn, as located by Elias Laugham, and also the land to be re-entered by said McArthur, is to be valued by two disinterested men, one to be chosen by each of the contracting parties, and if the said two men cannot agree on the price of said lands or any part thereof, the said two men are to choose a third man, who, together with the other two, shall agree on the price of said land, and the said Hobson's are to have so much of said land, so to be re-located by said McArthur, as will amount to the value of the land from which said warrants shall have been removed, and also land to the amount and value of two thousand dollars, in addition to the value of the ten thousand and where the same was entered by Elias Laugham; and the said John and Mathew Hobson doth hereby obligate themselves, their heirs, executors and administrators, separately and jointly, to convey unto the said McArthur, his heirs, &c., all and singular the

balance of said ten thousand acres, after deducting therefrom such quantity as by valuation as aforesaid, will amount to the value of the said ten thousand acres, where the same was first located by said Laugham, and also land to the value of two thousand dollars as aforesaid; and it is further understood and agreed upon, that if the lands located by the said McArthur, should not be valued to the amount of the lands so located by said Laugham, and also two thousand dollars, then, and in that case, said McArthur is to convey unto the said John and Mathew, their heirs, &c., other lands to the amount of said valuation, with the value of two thousand dollars in land as aforesaid, said Hobson to pay all office fees and surveying expenses. Said valuation to take place on or before the expiration of three and an half years from the date hereof; said Hobson to pay the taxes on said lands until divided, and then the said McArthur to pay to the said Hobson his proportionable part of said taxes.

In witness whereof we, the contracting parties, do hereunto set our hands and seals, this 10th day of November, A. D. 1810.

Be it remembered before signing, that the division of said lands shall take place forthwith, after the titles are considered secure, and that the lands located by Laugham, are to be picked as he upon his honor intended.

Signed DUNCAN McARTHUR, [L. S.]
JOHN & M. HOBSON, [L. S.]

Witness:
E. LAUGHAM,
EDWARD BASKERVILLE.

Having this day sold and assigned unto Duncan McArthur, party to the above and aforegoing agreement, all my right and title to one moiety (5,000 acres) of the land warrants located by him under said agreement, the same (the agreement) as to myself and the said McArthur is hereby cancelled and annulled.

Witness my name at Chillicothe, in the State of Ohio, the 24th November, 1818.

Signed JOHN HOBSON.

Atttest:
CADWALLADER WALLACE,
SILVANUS BOURNE.

I certify that the foregoing is a true copy of the original now on file in this office.

In testimony whereof, I have hereunto set my hand and caused to be affixed the seal of the General Land Office, this 23d day of August, 1830. [L. S.]

JOHN M. MOORE,
Acting Commissioner.

Exhibit B.

No. 6890. Nov. 12, 1810. withdrawn. John Hobson and Mathew Hobson, assees, enters 500 acres of land on part of a military warrant, No. 5878, on the waters of Paint creek, beginning at the southwest corner of William Creighton's Willow Spring tract, in the line of an entry made for the heirs of Nicholas Hobson, deceased, No. 6347, running with Creighton's line east 235 poles, thence and from the beginning south for quantity.

No. 6891. 1200 acres, withdrawn. John Hobson and Mathew Hobson, assees, enters 1500 acres of land on part of a military warrant, No. 5878, on the waters of Deer creek, beginning 200 poles north 70 west from the northwest corner of an entry made for the heirs of Nicholas Hobson, deceased, running south 70 east to said corner of said entry, thence with their back lines eastwardly to their northeast corner, thence east 160 poles, thence and from the beginning north so far that an east and west line will include the quantity.

No. 6892. 833 1-3 acres. withdrawn. Amended, p 289. John Hobson and Mathew Hobson, assees, enters 1033 1-3 acres of land on part of a military warrant, No. 5878, on the waters of the east fork of the north fork of Paint creek, beginning at the northeast corner of Adam Funk's land, where he now lives, running with his line and the same course, southwardly to the corner of Solomon Salmon's land (or to his line) thence with his line or lines on the east side of his tract 200 poles on a straight line southwardly, thence and from the beginning east so far that a north and south line will include the quantity.

No. 6893. withdrawn. John Hobson and Mathew Hobson, assees, enters 2000 acres of land on part of a military warrant, No. 5879, on the waters of Paint creek, beginning at the northwest corner of William Robinson's entry, No. 6050, running with his line and course thereof south 800 poles, thence and from the beginning west for quantity.

No. 6894. withdrawn. John Hobson and Mathew Hobson, assees, enter 800 acres of land on part of a military warrant, No. 5879, on Dry run, a branch of Deer creek, beginning at the upper back corner of William Sayorious' land which he purchased out of Cornelius Baldwin's tract on Darby creek, running with Baldwin's line southwardly to the corner therein of Angus L. Laugham's entry, No. 6398, thence with Laugham's line west to his northwest corner, thence with another of his lines southwardly to his southwest corner, thence west and from the beginning, N. 75 west, so far that a line north and south will include the quantity.

No. 6895. John Hobson and Mathew Hobson, assees, enters 200 acres of land on part of a military warrant, No. 5879, on Dry run, a branch of Deer creek, beginning in the line of Peter Muhlenberg's survey, No. , at the southeast corner of Daniel Brown's entry, No. 6325, running with Muhlenburger's line southwardly to the corner of John Campbell's entry, No. 5105, thence with Campbell's line, and from the beginning with Brown's line, westwardly for quantity.

No. 6896. John Hobson and Mathew Hobson, assees, enters 300 acres of land on part of a military warrant, No. 5879, on Dry run, a branch of Deer creek, beginning on the run where the lower line of John Campbell's entry, No. 5105, crosses it, thence down the run to the upper line of a survey belonging to George Mathews, thence with Mathews' line on both sides of the run, and from the beginning with Campbell's line on both sides of the run, so far as to include an equal quantity on each side thereof, by parallel lines to which general course from Campbell's line to Mathews's line.

100 acres, withdrawn.

No. 6897. John Hobson and Mathew Hobson, assees, enter 100 acres of land on part of a military warrant, No. 5879, on the waters of Dry run, a branch of Deer creek, beginning at the northeast corner of John Campbell's entry, No. 5105, in the lower line of Peter Muhlenburg's survey, running with Campbell's line south 200 poles, thence and from the beginning east for quantity.

No. 6898. John and Mathew Hobson, assees, enters 333 1-3 acres of land on part of a military warrant, No. 5879, on the waters of Deer creek, beginning 200 poles west from Edward Pritchard's house, where he now lives, running south 333 1-3 poles, thence at right angles west for quantity.

withdrawn.

No. 6899. John Hobson and Mathew Hobson, assee, enter 630 acres of land on part of a military warrant, No. 5879, on Beever creek, a branch of Buck creek, beginning at the northeast corner of James Knight's entry, No. 5452, running east 130 poles, thence south 120 poles, thence south 45 east 300 poles, thence west 427 poles, thence north 300 poles, thence east 70 poles, thence south 87 poles, thence south 79 east 54 poles to the beginning.

withdrawn.

No. 6900. John Hobson and Mathew Hobson, assees, enter 570 acres of land on part of a military warrant, No. 5879, on the waters of the north fork of Paint creek, beginning on the United States road in the west line of an entry belonging to James Dunlap, which includes where said road crosses the north fork of Paint creek, running with said road westwardly to the corner of an entry made for William Robinson, Daniel Counts, and William McKee, No. 6630, thence with their line to their southeast corner, thence with another of their

lines west 100 poles, thence and from the beginning south so far that an east and west line will include the quantity.

No. 6901. withdrawn. John Hobson and Mathew Hobson, assees, enters 400 acres of land on part of a military warrant, No. 5879, on the waters of the east fork of Paint creek, beginning in the line of Samuel Smith, at the southeast corner of William Robinson's entry, No. 6050, running with Smith's line to his southwest corner, thence to the northwest corner of John Stokes' entry, No. 5460, thence with his line southwardly 100 poles, thence and from the beginning west, so far that a north line will include the quantity.

No. 6902. John Hobson and Mathew Hobson, assee, enters 1000 acres of land on a military warrant No. 5876, on the waters of Deer creek, beginning at the northwest corner of Beverly stubblefields, entry No. 5424, in the line of James Galt, heirs, &c.; No. 4,774 running with Galt's line northwardly to the line of John Shearer's entry No. 6625; thence with his line east to his southeast corner; thence with another of his lines northwardly to his northeast corner; thence with another of his lines west to his northwest corner; thence to the southeast corner of John Hart's entry No. 6057; thence with his east line northwardly, and with his east lines northwardly of John S. Wills's entry No. 6426, Angus L. Laugham's entry, and George Renick's entry No. 5824, to the line of Renick's entry No. 5624; thence with Renick's line eastwardly, and from the beginning east, so far that a north and south line will include the quantity.

800 acres, withdrawn.

No. 6903. Withdrawn. John Hobson and Mathew Hobson, assees, enter 300 acres of land on part of a military warrant No. 5878, on the waters of Bradford's fork of Deer creek, beginning at the southwest corner of Andrew Poe's entry of 100 acres, where he now lives, running northwardly with the west line of said Poe's entry, and the west line of Jesse McKay's upper entry on Bradford's fork, to his northwest corner; thence, and from the beginning, west so far that a north and south line will include the quantity.

No. 6904. Withdrawn. John Hobson and Mathew Hobson, assee, enters 1093 1-3 acres of land, on part of a military warrant No. 5878, on the waters of Deer creek, beginning at a forked elm, northeast corner of Robert Sharp's entry No. 5897, running with the line of George Hoffman, No. 6246, N. 44, W. 75 poles; thence, with another of Hoffman's lines, north 270 poles, to his northwest corner; thence with his line east 45 poles; thence north 56 poles; thence N. 20, west 165 poles; thence west 337 poles; thence south 215 poles; thence S. 30, E. 335 poles; thence S. 89, E. 77 poles; thence S. 26, E. 140 poles; thence to the beginning.

No. 6905. John Hobson and Mathew Hobson, assees, enter 366 2-3 acres of land on part of a military warrant

Withdrawn. No. 5878, on the waters of Bradford's fork of Deer creek, beginning at the southeast corner of Andrew Cypress, entry No. 4913, running with his line westerly to the of William Robinson's entry, made in the name of the representatives of William Sanford, deceased, No. 6052; thence, and from the beginning, east so far that a line north and south will include the quantity.

No. 6906. John Hobson and Mathew Hobson, assee, enters 540 of land, on part of a military warrant No. 5878,
273 1-3 acres withdrawn. on the waters of Deer creek, beginning at four bur oaks cornered in the line of Joseph Harness, entry No. —, 60 poles S., 39 W. from where Harness's line crosses the road leading from Laugham's plantation to John Graham's, running with Harness's line S. 39, W. 250 poles, to the line of the representatives of Peter Helpenstine, deceased, their survey No. 4515; thence with his line north to his most northeast corner; thence with another of his lines west 262 poles; thence N. 20, E. 225 poles, to the southwest corner of William Reynold's survey No. 4423; thence N. 48, E. with Reynold's line, to his southeast corner; thence to the beginning.

AUDITOR'S OFFICE, *Chillicothe*,
August 10*th*, 1816.

I, Ralph Osborn, auditor of public accounts for the State of Ohio, do hereby certify, to all to whom it may concern, that the foregoing are true and correct copies of entries in the name of John Hobson and Mathew Hobson, taken from the records in this office.

In testimony whereof I have hereunto set my hand, the day and year aforesaid.

RALPH OSBORN, *Auditor.*

Exhibit C.

No. 6913. John Hobson and Mathew Hobson, assees, enter 255 acres of land, on part of a military warrant
1810, November 19. No. 5878, on the waters of Mad river, beginning at the northeast corner of Duncan McArthur's entry No. 6912, in the line of Thomas Sear's survey No. 142, running with the line of McArthur's said entry S. 70 W., to the northwest corner thereof; thence N. 24 W., and from the beginning N. 20 W., so far that a line S. 70 W. will include the quantity.

No. 6914. John Hobson and Mathew Hobson, assees, enter 312 acres of land, on part of a military warrant No. 5878, on the waters of Mad river, beginning at the southwesterly corner of John Cole's survey No. 4532, running with said line N. 20 W., to the northwesterly corner thereof; thence S. 70 W., and from the beginning, S. 70 W., so far that a line N. 24 W. will include the quantity.

No. 6915. John Hobson and Mathew Hobson, assees, enter 270 acres of land, on part of a military warrant No. 5878, on the waters of Mad river, beginning at the northwesterly corner of John Cole's survey No. 4532, and southwesterly corner of Thomas M. Bayley's survey No. 5733, running with Bayley's line N. 20 W., to the northwesterly corner thereof; thence, and from the beginning off, at right angles S. 70 W., for quantity.

No. 6922. John Hobson and Mathew Hobson, assees, enters 6220 acres of land, on part of two military warrants 3729 2-3 acres on No. 5878, and 2490 1-3 acres on 5879, on Mad river, Mackachack and the north fork of King's creek, beginning at the northwesterly corner of Thomas Worthington's survey No. 4479, running S. 20 E. 1600 poles; thence, and from the beginning off, at right angles, S. 70 W., so far that a line S. 23 1-2 E. will include the quantity.

No. 6923. John Hobson and Mathew Hobson, assees, entered 1193 acres, on part of a military warrant No. 5879, on Mad river, beginning at the northwesterly corner of Thomas Worthington's survey No. 4479, and northeasterly corner to said Hobson's entry No. 6922; running S. 70 W., with the line of their entry, to the northwesterly corner thereof, and from the beginning N. 20 W. so far that a line to said northwest corner of their former entry will include the quantity.

No. 6926. John Hobson and Mathew Hobson, assee, enter 1750 acres of land, on part of two military warrants, 800 acres, part of No. 5876, and 950 acres on 5879, on the waters of Mad river, beginning at the north corner of said Hobson's entry No. 6923; thence with the line of said entry southwesterly, to the west corner thereof; thence N. 23 1-2 W. so far that a line to the beginning will include the quantity.

Exhibit D.

[See MSS., page 20.]

Surveyed for John Hobson and Mathew Hobson assee, 6,220 acres of land, on part of two military warrants, 3,729 2-3 acres, on No. 5,878; and 2,490 1-3 acres on No. 5,879 on Mad river, Macackick

and the north fork of King's creek, beginningat the northwesterly corner of Thomas Worthington's survey, No. 4,479, two white oaks and a black oak, one of the white oaks marked (M 30) running S. 20, E. 1,600 poles, crossing Macackack or Kenton's creek at 120, and the north fork of King's creek at 1,532 poles to three bur oaks, one of them marked (M 25,)in the west line of Jesse Davis's survey No. 4,538 and northeasterly corner to Joseph and Benjamin W. Ladd's and Thomas Newell's survey, No. 6,921, thence with the line of their survey S. 70, W. 588 poles, crossing the north fork of King's creek at 138 poles, to a small hickory and black oak bush in a large plain, thence No. 23½, W. 1,613 poles, crossing Macackee or Kenton's creek, at 924, and Mad river at 1,520 poles to two jack oaks and two bur oaks in the bottom, near the foot of the hill, thence N. 70, E. 680 poles, crossing Mad river at 210, and a spring branch at 260 poles to the beginning.

DUNCAN McARTHUR, *D. S.*

CHRISTOPHER POPEJOY, November 20, 1810.
JAMES MANARY, jr., November 22, 1810.

C. C & Mk.

[See original page 21.]

Surveyed for John Hobson and Mathew Hobson assees, 2,943 acres of land, on part of two military warrants, 800 acres on No. 5,876, and 2,143 acres on No. 5,879 on Mad river, beginning at a black oak and two white oaks, one of white oaks marked (M 30,) northwesterly corner to Thomas Worthington's survey, No. 4,479, and northeasterly corner to said Hobson's survey No. 6,922, running with the line of their former survey S. 70, W. 680 poles crossing a spring branch at 420 poles, and Mad river at 470 poles to two jack oaks and two bur oaks in the bottom near the foot of the hill, northwest corner to their said survey thence N. 23½ W. 715 poles to a stake, thence N. 79, E. 728 poles, crossing several branches, to a black oak westerly corner Samuel Finley's survey N. 4,493,

and 4,525 thence, with Finley's line and course thereof, S. 20, E. 596 poles, crossing Mad river at 184 poles to the beginning.

DUNCAN McARTHUR, *D. S.*

CHRISTOPHER POPEJOY,
JAMES MANARY, jr.,
C. C. & Mk.

[See original page 22.]

Surveyed for John Hobson and Mathew Hobson assees, 270 acres of land, on part of a military warrant No. 5,878, on the waters of Mad river, beginning at a white oak, ash and elm, northwesterly corner to John Cole's survey No. 4,532, northeasterly corner to said Hobson's survey No. 6,914, and southwesterly corner to Thomas M. Bayley's survey No. 5,733, running with line of Bayley's survey N. 20, W. 260 poles to an elm, red oak and small black walnut, northwesterly corner to said Bayley's survey, thence S. 70, W. 160 poles, crossing a small branch to two white oaks from one root, a black oak and hickory, thence S. 20, E. 260 poles crossing a branch to a stake northwesterly corner to said Hobson's survey, thence with said line N. 70, E. 166 poles to the beginning.

DUNCAN McARTHUR, *D. S.*

CHRISTOPHER POPEJOY, November 20, 1810.
JAMES MANARY, jr., November 22, 1810.
C. C. & Mkr.

[See original page 23.]

Surveyed for John Hobson and Mathew Hobson assees, 312 acres of land, on part of a military warrant No. 5,878, on the waters of

Mad river; beginning at an ash, elm and hickory, southwesterly corner to John Cole's survey No. 4,532, and northeasterly corner to said Hobson's survey No. 6,913, running with said Cole's line N. 20, W. 320 poles, crossing a branch to a white oak, ash and elm, northwesterly corner to said Coles survey; and southwesterly corner to Thomas M. Bayley's No. 5,733, thence S. 70, W. 166 poles to a stake, thence S. 24, E. 322 poles, crossing a branch to a stake, northwesterly corner to said Hobson's former survey, thence with the line thereof, N. 70, E. 146 poles to the beginning.

DUNCAN McARTHUR, *D. S.*

CHRISTOPHER POPEJOY, November 19, 1810,
JAMES MANARY, jr., November 20, 1810.
C. C. & Mks.

[See original page 23.]

Surveyed for John Hobson and Mathew Hobson, assees, 255 acres of land, on part of a military warrant No. 5,978, on the waters of Mad river, beginning at three hickories and a black oak, northeasterly corner to Duncan McArthur's survey No. 6,912, in the line of Thomas Sear's survey No. 142, running with McArthur's line of said survey, S. 70, W. 126 poles to a white oak, northwest corner to said survey, thence N. 24, W. 300 poles to a stake, thence north 70, E. 146 poles to an ash, elm and hickory, southwesterly corner to John Cole's survey No. 4,532, thence S. 20, E. 229 poles, passing the northwest corner of Sear's said survey, and with the line of the same to the beginning.

DUNCAN McARTHUR, *D. S.*

CHRISTOPHER POPEJOY, November 19, 1810.
JAMES MALARY, jr., November 20, 1810.
C. C. & Mks.

Exhibit E.

Whereas, on the 10th day of November, in the year 1810, I, Duncan McArthur, entered into a written agreement with John

and Mathew Hobson of the State of Georgia, for the use and benefit of ten thousand acres of Virginia military land warrants, which were sent by Col. Elias Laugham to the office of Col. R. C. Anderson, with entries to be located or entered in the books of said office, on barren lands, principally in the county of Fayette and Madison, in the State of Ohio; and which were so located or entered in said office on the 12th day of November, 1810, numbered from 6,890 to 6,906 inclusive, the whole quantity of land warrants so sent, and located by said Laugham, being 11,666 2-3 acres or thereabouts, for which services he the said Laugham was to have 1,666 2-3 acres; and whereas, the ten thousand acres of said entries to be withdrawn by me, were to be selected or "picked" by said Laugham, "as he upon his honor intended," retaining for himself the 1,666 2-3 acres which he was to have for his services in such entries as he should think proper to be "picked" or selected "upon his honor" of an average quality value with the whole 11,666 2-3 acres; and I was to pay to the said Hobson's out of the lands to be located by me on the said land warrants, the value of ten thousand acres so by me to be withdrawn and located together, with two thousand dollars worth of other lands, for the use of said 10,000 acres of land warrants until the titles of the same, as to be located west of Ludlow's line, "should be considered secure," as will more fully and at large appear by reference to the said article of agreement; and whereas, on the 24th of November, 1818, I purchased from said John Hobson his moiety or undivided half of the ten thousand acres of land or land warrants so located by me; and the remaining moiety or half of the same, in the name of Mathew Hobson, is yet to be settled for by compromise, or agreeable to the conditions and stipulations of said articles of agreement; now therefore,

Know all men by these presents that I, Duncan McArthur, of Ross county and State of Ohio, party of the said article of agreement, do make, constitute, and appoint my son, Thomas J. McArthur, of the said county of Ross, my true and lawful attorney, for me and in my name to settle with said Mathew Hobson either by compromise taking from him an assignment for his moiety or one-half of the said ten thousand acres of land warrants so located by me, and paying him the said Hobson a fair compensation in money therefor, by drawing a draft on me for such amount as may be agreed upon by my said attorney and the said Hobson, payable at the office of discount and deposite of the Bank of the United States at the city of Washington, which I hereby authorize my said attorney to do, or by having the barren lands located by Col. Elias Laugham, on the said warrants for and in the name of the said John Hobson and Mathew Hobson, ass'ees valued; and also so much of the land located by me on the said warrants valued, as will amount to the value of the five thousand acres of the said barren land so located by Laugham, for the said Matthew Hobson, and in addition thereto, have valued land to the value of one thousand dollars, to which the said Mathew is entitled for the use of his said 5,000

acres of land warrants; agreeably to the conditions and provisions of said article of agreement, my said attorney is hereby authorized to appoint a person or persons to value the said lands, and to demand, and receive for me and in my name, from the said Mathew Hobson, such conveyance or assignment of all and singular, the balance of his said 5,000 acres, after having received lands to the amount of the value of his 5,000 acres of barren land; and to the value of one thousand dollars, for the use of his said land warrants as aforesaid, out of the lands so located by me, for and in the name of said John Hobson and Mathew Hobson, or for either of them on the said warrants, my said attorney is hereby empowered and authorized for me and in my name, to convey or assign to the said Matthew Hobson, or to such person or persons as he may direct, the whole or any part of my moiety, or one half of survey No. 6,923, and 6,926 for 2,943 acres, and survey No. 6,915 for 270 acres, which I now hold by assignment, from John Hobson as aforesaid, in discharge of my obligation to said Mathew Hobson, agreeably to the provisions and conditions of the said article of agreement, between the said John and Mathew Hobson and myself. I further authorize and empower my said attorney, to do and perform all and whatsoever shall be requisite and necessary in the premises, to settle my business with the said Mathew Hobson, in as full and ample manner to all intents and purposes as I myself could or might do if personally present, with power also an attorney or attornies under him for that purpose to make and substitute, and to do all lawful acts for effecting the premises, hereby ratifying and confirming all that my said attorney, or substitute or substitutes, shall do therein by virtue hereof.

In witness whereof, I have hereunto set my hand and seal, at
[L. S.] Chillicothe, this 30th day of July, A. D. 1830.

Witness, DUNCAN McARTHUR.
ANDREW S. ALDEN,
B. G. LEONARD.

STATE OF OHIO, *Ross County, ss.*

Be it known, that on the thirtieth day of July, in the year one thousand eight hundred and thirty, before me, Preslay Morris, one of the associate judges of the court of common pleas in and for said county, personally came Duncan McArthur, the constituent above named, and acknowledged the above and foregoing letter of attorney, to be his act and deed for the use and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand, and affixed
[L. S.] my seal, the day and year last above written, to wit: July 30, 1830.

PRESLAY MORRIS.

Exhibit F.

Pursuant to an agreement entered into the 10th day of November in the year 1810, between Duncan McArthur and John and Mathew Hobson in relation to the withdrawing and re-locating of ten thousand acres of Virginia military land warrants in the Virginia military district in the State of Ohio, we, William Vance and Matthew Bonner, the said Vance having been chosen by the said McArthur, and the said Bonner by Mathew Hobson, proceeded to view, examine and value the lands that had been entered by Col. Elias Laugham, and surveyed by him in fifteen surveys, plats of which we had certified by said Laugham upon his honor, bearing date the 10th day of September, 1818, but after proceeding, finding we, the said Vance and Bonner could not agree in the value of the said lands, or some part of them, we choose Lyne Starling, as a third man, pursuant to said agreement, and we, the said Lyne Starling, William Vance and Mathew Bonner have agreed upon the following valuation of the said lands as located by said Laugham, and certified and surveyed by him as aforesaid. That is to say, we valued 100 acres, part of entry No. 6896, at one hundred and fifty dollars; 333 1-3 acres, entry No. 6898, at four hundred sixteen dollars seventy-five cents; 800 acres, entry No. 6894, at one thousand two hundred dollars; 800 acres, part of entry No. 6902, at one thousand dollars; 570 acres, entry No. 6900, at one thousand two hundred eighty-two dollars 50 cents; 833 1-3 acres, part of entry No. 6892, at one thousand two hundred and fifty dollars; 200 acres, part of entry No. 6901, at three hundred dollars; 2000 acres, entry No. 6893, at three thousand dollars; 500 acres, entry No. 6890, at eight hundred and seventy-five dollars; 300 acres, entry No. 6903, at five hundred and twenty-five dollars; 366 2-3 acres, entry No. 6905, at six hundred and forty one dollars 25 cents; 1093 1-3 acres, entry No. 6904, at one thousand nine hundred dollars; 273 1-3 acres, part of entry No. 6906, at six hundred fourteen dollars 50 cents; 1200 acres, part of entry No. 6891, at two thousand four hundred dollars; and 630 acres, entry No. 6879, at nine hundred and forty-five dollars; amounting in the whole to the sum of sixteen thousand five hundred dollars, according to what we believe the value of the lands at this time, as unimproved land.

Given under our hands this 10th day of Seprember, 1830.

(Signed duplicates.)

LYNE STARLING,
WILLIAM VANCE,
MATHEW BONNER.

Pursuant to the agreement referred to, in the above and preceding award or valuation, we, Lyne Starling, William Vance and Mathew Bonner, proceeded in company with the said Mathew Hobson, and Col. Thomas J. McArthur, the said Thomas J.

McArthur being agent for the said Duncan McArthur, and also with Edward L. Morgan, surveyor of Champaign county, who, the said Thomas J. McArthur employed to survey and show the lands that said McArthur had withdrew and re-located in virtue of the warrants referred to in said agreement, on Mad river, west of Ludlow's line, to view, examine and value the said lands, and after viewing and examining the same, the said William Vance not agreeing with us the said Lyne Starling and Mathew Bonner as to the value of the same, we, the said Lyne Starling and Mathew Bonner do value and appraise the same as follows: that is to say, two thousand nine hundred and forty-three acres, survey No. 6923 and 6926, at one dollar and seventy-five cents per acre, amounting to the sum of five thonsand one hundred fifty dollars, and six thousand two hundred and seventy acres, survey No. 6922, at five dollars per acre, amounting to the sum of thirty-one thousand one hundred dollars; amounting in the whole, both tracts included, to the sum of thirty-six thousand two hundred and fifty dollars, according to what we believe to be the value of the said lands at this time as unimproved lands.

Given under our hands this 13th day of September, 1830.

LYNE STARLING,
MATHEW BONNER.

And thereupon the following injunction issued in this cause, to wit:

STATE OF OHIO, *Ross County, ss.*

To Mathew Hobson, his agent or attorneys:

Whereas Duncan McArthur has this day filed his petition or bill in chancery in the supreme court of this State in and for the county of Ross aforesaid, which, among other matters for, asks an injunction against Mathew Hobson, the defendant named in said bill, from claiming or receiving through himself or any assignee or agent from the Treasury of the United States any part of the monies appropriated by an act of Congress passed on the 26th day of May, 1830, for the payment and settlement of the conflicting claims between the United States and certain holders of Virginia military land warrants; and whereas by an order of the honorable Henry Brush, one of the judges of the said supreme court of the State of Ohio, dated the 21st day of September, 1830, the said injunction as prayed for in said bill is allowed and ordered. Now, therefore, you, the said Mathew Hobson, are hereby commanded to abstain and desist from in any manner applying for, demanding, or receiving from the Treasury of the United States, or any agent of the said Government, any part of the monies so appropriated by the act of Congress aforesaid for the purposes aforesaid until the matters in the bill of complaint and injunction of the said Duncan

McArthur can be heard and adjudicated in our supreme court, and you are hereby commanded, ordered, and enjoined from claiming the said monies, or receiving the same through yourself or any agent, attorney, or assignee until the further order of our supreme court.

Witness the honorable Peter Hitchcock, chief judge of our said court at the court house in Chillicothe, this [L. S.] 21st day of September, A. D. 1830, and of this State the 28th.

HUMPHREY FULLERTON, *Clerk.*

Upon which said injunction the sheriff made the following return, to wit:

Served by giving the defendant a true copy of this injunction, September 21st, 1830.

C. MARTIN, *Sheriff.*

And thereupon the following subpœna issued, to wit:

THE STATE OF OHIO, *Ross County, ss.*

To the Sheriff of Ross County, greeting:

We command you to summon Mathew Hobson, that he be and appear before the judges of the supreme court of the State of Ohio for the county of Ross, at the court house in the town of Chillicothe, on the first day of our next term, to answer a petition in chancery exhibited against him by Duncan McArthur, and this he shall in no-wise omit under the penalty of one thousand dollars, and have then there this writ.

Witness the honorable Peter Hitchcock, chief judge of our said court at the court house in Chillicothe, this [L. S.] 21st day of September, A. D. 1830, and of this State the 28th.

HUMPHREY FULLERTON, *Clerk.*

Upon which said subpœna the sheriff made the following return, to wit:

Summoned by giving the defendant a true copy of this writ, September 21st, 1830.

C. MARTIN, *Sheriff.*

And now at this day, to wit, on the day in the year and at the place first herein aforesaid mentioned, the defendant, by Creighton & Bond, his solicitors, this day presented to the court a petition praying the removal of this cause to the next circuit court of the United States for the district of Ohio, pursuant to the act of Congress in such case made and provided, which said petition reads in the words and figures following, to wit:

To the honorable the Judges of the Supreme Court of the State of Ohio in and for Ross County, now in session:

The petition of Mathew Hobson, a citizen of and resident in the State of Alabama, respectfully states to your honors, that a certain suit in chancery has been commenced before your honorable court by Duncan McArthur, a citizen of and resident in the State of Ohio, against your petitioner, as will appear on reference to the bill, process and proceedings now on file in your honorable court, and which your petitioner prays may be considered as part of this petition. Your petitioner also states that the present is the first term of your honorable court since said suit was commenced, this being the appearance term. Your petitioner is desirous of removing said cause to the circuit court of the United States for the district of Ohio, pursuant to the act of Congress in such case made and provided. He states to your honors that the sum or matter in dispute in said cause, exclusive of costs, greatly exceeds the sum of five hundred dollars, and therefore prays your honors to order the said cause forthwith to be removed for trial to the circuit court aforesaid, pursuant to the statute aforesaid, and for that purpose your petitioner now offers to enter into bond with security to the satisfaction of this honorable court conditioned as the law directs. And your petitioner as, &c.

MATHEW HOBSON,
By Creighton & Bond his Solicitors.

And thereupon, the court being satisfied of the truth of said petition, and that the subject matter in dispute exceeds five hundred dollars in amount, do order that the prayer of said petitioner be granted upon his giving security in the sum of five hundred dollars, conditioned as the law directs. Whereupon the said defendant perfected such bond, William K. Bond becoming security pursuant to said order, which bond being seen and inspected by the court, is accepted, and it is ordered by that the clerk certify a transcript of the papers and proceedings in this cause, and deliver the same to the said defendant, his agent or solicitor. The following is a copy of the bond mentioned in the above order, to wit:

Know all men by these presents, that we, Mathew Hobson and William K. Bond, are held and firmly bound unto Duncan McArthur in the sum of five hundred dollars lawful money of the United States, to be paid to the said Duncan McArthur, his certain attorney, heirs, executors, or administrators, for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this third day of December, A. D. 1831. Whereas the said Duncan McArthur, at the November term of the supreme court of the State of Ohio in and for the county of Ross, in the present year instituted a suit in chancery against him, the said Mathew Hobson, as will also appear on reference to the said suit and proceedings; and

whereas the said Mathew Hobson has this day preferred his petition to the said court praying said cause to be removed for trial to the next circuit court of the United States for the district of Ohio, pursuant to the act of Congress in such case made and provided, which said petition and prayer being deemed true and reasonable by said supreme court, was allowed, and said cause ordered to be removed as prayed for upon said Mathew Hobson causing a bond to be perfected as required by the statute in such case made and provided. Now, therefore, the condition of the said obligation is such, that if the said Mathew Hobson shall, as directed by said statute, well, truly, and faithfully on the first day of the next term of the circuit court aforesaid, enter and file therein copies of the process and proceedings against him in the matter aforesaid, and shall also then and there enter his appearance in the said court in the State aforesaid, and in all things comply with the statutes in such case made and provided, then and in that case the said obligation shall be wholly void, otherwise the same shall be and remain in full force and virtue in law.

MATHEW HOBSON, [L. S.]
By his Creighton & Bond, his Attorneys.
WM. KEY BOND, [L. S.]

Signed, sealed, and delivered in the presence of
H. FULLERTON, *Clerk.*

THE STATE OF OHIO, *Ross County, ss.*

I, Humphrey Fullerton, clerk of the supreme court of the State of Ohio in and for the county of Ross, do hereby certify that the aforegoing transcript is taken from the records and files in my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, this 16th day of December, A. D. 1831, and of this State the 30th.
[L. S.]
HUMPHREY FULLERTON, *Clerk.*

And thereupon, on motion of Mr. Bond, the counsel of the defendant, it is ordered, that this cause be docketed as a cause removed to this court from the supreme court of the State of Ohio within and for the county of Ross, pursuant to the act of Congress in such case made and provided; and thereupon the defendant, by his attorney aforesaid, enters his appearance, and this cause was continued; and afterwards, to wit, on the second day of April in the year of our Lord one thousand eight hundred and thirty-two, the defendant by Messrs. Creighton & Bond his counsel, filed in the clerk's office of said court his answer to the bill of complainant as follows, to wit:

The answer of Mathew Hobson to the bill of complaint filed against him by Duncan McArthur, complainant, in the Supreme Court of the State of Ohio in and for Ross county.

The said defendant now and at all times hereafter, saving and reserving to himself all, and all manner of exceptions to the many

errors untruths misrepresentations and defects in the said bill contained, for answer to the same or unto such parts thereof, as he is advised and believes it material for him to answer, says: True it is, that on the 10th day of November A. D. 1810 he made with complainant the contract, a copy of which marked A, is exhibited with the said bill, and by the contract so made he abides, but, not by any statement of its contents given by the complainant further than the same is consistent with the written provisions of the said contract and a just interpretation thereof. This defendant admits that the said complainant after making said contract withdrew the ten thousand acres of entries made by Elias Laugham and referred to in the said contract: And defendant believes that complainant afterwards re-entered the same, and that exhibits C. & D, accompaning the said bill, truly describe the entries and surveys made by complainant under the said contract. This defendant has heard and believes, that his brother John Hobson, some time in the year 1818, sold and transferred his interest in the said contract to the said complainant, yet so far as the interest of this defendant is effected thereby, if at all, he requires the production of the written evidence of such transfer, the same being in writing as this defendant has heard and believes. In further answering, this defendant says, that he came to the State of Ohio early in August 1830, with a view to adjust his interest in said contract with the complainant and if necessary and practicable to take possession of the land to which he might be entitled under the said contract. On his arrival at Chillicothe he was met by Thomas J. McArthur the son of complainant and who professed to be the agent of complainant, for the express purpose of having a settlement with this defendant under the said contract. The said Thomas J. McArthur produced and exhibited to this defendant a power of attorney from his said father, and this defendant presumes it is the same power which complainant now exhibits with his said bill. This defendant recognized the said Thomas J. McArthur as the agent of said complainant accordingly, and with a view to a settlement of said contract the said Thomas J. McArthur as agent of complainant, named and appointed William Vance to value the lands on the part of the said complainant pursuant to said contract, and this defendant on his part named and appointed Mathew Bonner, of which said William Vance and Mathew Bonner were duly advised and each accepted and agreed to act. And accordingly on or about the twenty-third day of August 1830, the said Vance and Bonner (accompanied by the said Thomas J. McArthur and this defendant,) proceeded to the valuation of said lands under the said contract and finding that they could not agree in opinion as to the value of the said lands they determined, and that too with the knowledge and approbation of the said Thomas J. MoArthur as agent of complainant to name and appoint an umpire, pursuant to the provisions of the said contract, and accordingly the said Vance and

Bonner named and appointed as such umpire or third man under the said contract Lyne Starling, Esquire, of Columbus, Ohio, the said Lyne Starling being in truth first named and designated by the said Vance, and assented to by the said Bonner. But before proceeding in the said valuation the matter was expressly enquired into by the said Thomas J. McArthur as such agent and also by his counsel Benjamin G. Leonard, Esquire, whether the contract was to be or could in any way be interpreted as requiring, that the whole three valuers should agree, in order to make a valed appraisement of said lands, and it was expressly agreed and understood that the assent of any two of them was and should be sufficient. And the said Lyne Starling being informed of his appointment accepted, and on the seventh day of September in the year 1830 he together with said Vance and Bonner, and accompained by the said Thomas J. McArthur, agent as aforesaid, and the defendant, (and that too, with the express knowledge and approbation of complainant,) proceeded to view and value the said lands under the said contract—and before entering on the duties of their appointment the said inquest all offered and proposed to be sworn if it were necessary or required, but the said Thomas J. McArthur did not intimate any wish to have it done and this defendant said, that so far as he was concerned he did not care about it; nor in the belief of this defendant does the contract expressly or impliedly require that an oath should be administered. The valuers aforesaid, including the whole three, then proceeded to view and value the lands, from which the said complainant had withdrawn the entries made by the said Laugham, and in assigning the value of which the whole three agreed and in writing signed an estimate of the value of said lands, immediately after which, the same inquest proceeded to value the lands which had been entered and surveyed by the said complainant under the said contract, the said Thomas J. McArthur agreed as aforesaid, first required the said inquest to view and value one of the surveys, to wit: No. 6923 & 6926, containing two thousand nine hundred and forty-three acres, which being viewed, the said William Vance estimated and valued as worth two dollars aud fifty cents per acre; but the said Mathew Bonner, estimated it as only worth one dollar and seventy-five cents per acre; whereupon said Vance and Bonner not agreeing, the said Lyne Starling was called on and he agreed in opinion with the said Bonner—after which the said Thomas J. McArthur as such agent required that survey No. 6922, containing six thousand two hundred and twenty acres, located by said complainant under the said contract should be valued, and after viewing the same the said Vance proposed to value it at six dollars per acre, and the said Bonner proposed to value it at five dollars per acre. Whereupon the said Vance & Bonner not agreeing, the said Lyne Starling was called on and he agreed in opinion with the said Bonner, that the said last mentioned survey was worth in value five dollars per acre only. It being thus ascertained that the lands thus valued were

more than sufficient to cover the claim of this defendant under the said contract, the said Thomas J. McArthur as such agent, and this defendant, mutually agreed that it was unnecessary to have any further valuation of the residue of the said lands located by the said complainant under the said contract. Whereupon the said inquest made up and reduced to writing, their award and estimate of the value of said lands under the said contract and furnished one copy thereof to the said Thomas J. McArthur as such agent, and another to this defendant, a copy of which marked M. H. is now filed herewith and prayed to be taken as part of this answer, and this defendant on the trial hereof will produce, and if necessary prove the original.

In further answering, this defendant says he had well hoped the complainant would at once have settled all matters under said contract, when the return of the inquest was made, and with that view this defendant promptly informed complainant of his, this defendant's willingness to settle, and that after taking and retaining such proportion of the lands so entered by the said complainant and valued as aforesaid as would cover and include the claims of this defendant under said contract, and agreeable to said valuation, he, the defendant, was willing and then offered at once to assign and relinquish to the complainant, the rest and residue of the said lands so valued, and also all the other entries and surveys made by said complainant and not valued for the reason aforesaid. But to the utmost surprise of this defendant, the said complainant wholly refused to do so, and instead of complying with his contract, commenced a tissue of abuse on the inquest aforesaid, or some member of it, which in part he has repeated in his said bill, and which this defendant rejects and throws back on him with contempt and disdain, not supposing it to be matter suitable to, or affecting the case or worthy to be answered.

But this defendant believes the persons referred to, to be honest, judicious and disinterested men, and that no one of them merits the libel or imputation, which complainant has seen fit to incorporate in his bill. If motives for appointment could be inquired into the defendant would be at no loss in naming what he supposed and believes induced the selection on the part of complainant. This defendant admits that the said complainant called on this defendant after the valuation of said lands, and made sundry requisitions. They are perhaps truly stated in the bill, but this defendant was sick at the time and confined to his bed, and as the demands of complainant were all reduced to writing and attested by witnesses, this defendant desires that the said writing may be produced.

He admits that he rejected all the demands and requisitions of the complainant made at the time alluded to, and indeed any demand which had for its object or design, a disregard in part or in whole the doings of the inquest aforesaid.

As it relates to the exceptions of the complainant to the valuation by said inquest, this defendant presumes the same will be for

the consideration of the court as matters of argument, but this defendant cannot but marvel at the complainant's objection, that the inquest did not value the houses and other expensive improvements, which he so kindly wanted this defendant to take from the occupants of the land, who hold under a title also derived from the United States, and would at all events be entitled to the benefit of the statute of Ohio, protecting occupying claimants. This defendant presumes that the lands were fairly and justly valued, he knows nothing and admits nothing to the contrary, and although complainant says he would value them higher, it is not discovered that he is right and the inquest wrong. So far as *interest* can be presumed to influence either, he is under suspicion.

This defendant admits the passage of the act of Congress referred to in the complainant's bill, and it was and is the design and purpose of this defendant to avail himself of the provisions of that act, if he can obtain any settlement of the matter with complainant. This defendant is now restrained by said complainant and prevented from extinguishing his interest in the said lands or any part of them to the United States, and this notwithstanding he made the offers aforesaid to complainant. This defendant is not aware of any right on the part of the said complainant to confine this defendant in settling with him under the said contract to any specific part or corner of either of the surveys valued, but supposed that when it was ascertained how much or what number of acres this defendant was entitled to under the contract and valuation, then he would hold the same undivided and in common with complainant, until by partition it was separated. Nor can this defendant discover on what ground the said complainant asserts a different opinion, and this defendant is equally at a loss to see the propriety of the complainant's right to pay off, and settle with this defendant in a given sum of money, unless it be that the complainant thinks that he only is entitled to the interest proposed to be paid under the act of Congress aforesaid. This defendant is perfectly willing to abide by the said valuation in the settlement of said contract, and again offers to relinquish to the said complainant in manner and to the extent before mentioned. And if the court think proper to decree in the premises in conformity with that wish and offer as proposed by defendant to complainant, this defendant is perfectly willing and will cheerfully be governed by such decree, the same being rendered at the costs of said complainant. But as this defendant has been restrained by complainant from receiving from the United States the money appropriated by the said act of Congress, or such part of the same as he would be entitled to under the said contract and valuation, this defendant humbly prays that the said complainant may be held and decreed to pay to this respondent lawful interest on the account thus restrained from the date of the injunction in this cause to the day when it may be dissolved.

He denies all fraud and unlawful combination without that, &c.,

and having answered, humbly prays that the said injunction may be dissolved, and that he may be dismissed hence with his costs, &c.

M. HOBSON.
CREIGHTON & BOND,
Sol. for Respd.

STATE OF OHIO, *Ross County, ss.*

Personally appeared before me, the subscriber, a justice of the peace in and for the county aforesaid, Mathew Hobson, who signs the above and foregoing answer, and being by me duly sworn, says that the several matters and things contained in the said answer, so far as stated from his own knowledge, are true, and so far as they are stated from the knowledge of others, he believes them to be true, and further says not.

M. HOBSON.

Sworn to and subscribed this 26th day of September, A. D. 1830, as witness my hand and seal.

JOSEPH TIFFIN, *J. P.* [L. S.]

Exhibit referred to in the foregoing answer.

Pursuant to an agreement entered into the 10th day of November, in the year 1810, between Duncan McArthur and John and Matthew Hobson, in relation to the withdrawing and re-locating of ten thousand acres of Virginia military land warrants in the Virginia military district in the State of Ohio, we, William Vance and Mathew Bonner, the said Vance having been chosen by the said McArthur, and the said Bonner by Mathew Hobson, proceeded to view, examine and value the lands that been entered by Col. Elias Laugham, and surveyed by him in fifteen surveys, plats of which we had certified by said Laugham, upon his honor, bearing date the 10th day of September, 1818. But after proceeding, finding we the said Vance and Bonner could not agree in the value of the said land or some part of them, we choose Lyne Starling as a third man pursuant to said agreement, and we, the said Lyne Starling, William Vance and Mathew Bonner have agreed upon the following valuation of the said lands as located by said Laugham, and certified and surveyed by him as aforesaid. That is to say, we valued 100 acres, part of entry No. 6896, at one hundred and fifty dollars; 333 1-3 acres, entry No. 6898, at four hundred sixteen dollars seventy-five cents; 800 acres, entry No. 6894, at one thousand two hundred dollars; 800 acres, part of entry No. 6902, at one thousand dollars; 570 acres, entry No. 6900, at one thousand two hundred eighty-two dollars 50 cents; 833 1-3 acres, part of entry No. 6892, at one thousand two hundred and fifty dollars; 200 acres, part of entry No. 6901, at three hundred dollars; 2000 acres,

entry No. 6893, at three thousand dollars; 500 acres, entry No. 6890, at eight hundred and seventy-five dollars; 300 acres, entry No. 6903, at five hundred and twenty-five dollars; 366 2-3 acres, entry No. 6905, at six hundred and forty-one dollars 25 cents; 1093 1-3 acres, entry No. 6904, at one thousand nine hundred dollars; 273 1-3 acres, part of entry No. 6906, at six hundred fourteen dollars 50 cents; 1200 acres, part of entry No. 6891, at two thousand four hundred dollars; and 630 acres, entry No. 6879, at nine hundred and forty-five dollars; amounting in the whole to the sum of sixteen thousand five hundred dollars, according to what we believe the value of the lands at this time as unimproved land.

Given under our hands this 10th day of September, 1830.

(Signed duplicates.)

LYNE STARLING,
WILLIAM VANCE,
MATHEW BONNER.

Pursuant to the agreement referred to in the above and preceding award or valuation, we, Lyne Starling, William Vance and Mathew Bonner, proceeded in company with the said Mathew Hobson and Col. Thomas J. McArthur, the said Thomas J. McArthur being agent for the said Duncan McArthur, and also with Edward L. Morgan, surveyor of Champaign county, who the said Thomas J. McArthur employed to survey and show the lands that said McArthur had withdrew and re-located in virtue of the warrants referred to in said agreement, on Mad river, west of Ludlow's line, to view, examine and value the said lands, and after viewing and examining the same, the said William Vance not agreeing with us the said Lyne Starling and Mathew Bonner, as to the value of the same, we, the said Lyne Starling and Mathew Bonner do value and appraise the same, as follows: that is to say, two thousand nine hundred and forty-three acres, survey No. 6,923 and 6,926 at one dollar and seventy-five cents per acre, amounting to the sum of five thousand one hundred and fifty dollars; and six thousand two hundred and twenty acres, survey No. 6,922 at five dollars per acre, amounting to the sum of thirty-one thousand one hundred dollars; amounting in the whole, both tracts included, to the sum of thirty-six thousand two hundred and fifty dollars, according to what we believe to be the value of the said lands at this time, as unimproved lands.

Given under our hands, this 13th day of September, 1830.

LYNE STARLING,
MATHEW BONNER.

And afterwards, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and thirty-two this cause was continued.

And afterwards, to wit, at the December term of said court, in

the year last aforesaid, the complainant by his counsel filed the following replication to respondents' answer, to wit:

UNITED STATES CIRCUIT COURT,
District of Ohio, ss.

DUNCAN MCARTHUR, Complainant
vs.
MATHEW HOBSON, Respondent. } Replication.

And the said complainants, protesting, &c., says, that the said answer of the said defendant is untrue, and that the said bill of him, the said complainant, is true, and so he will prove it to be, when and where this honorable court shall direct and award. Wherefore he prays, as in and by his said bill he has already prayed, &c.

LEONARD & KING,
Solicitors for Complainants.

December Term, 1832.

And thereupon the complainant, by his counsel, filed the following deposition, to wit:

Notice.

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR
vs.
MATHEW HOBSON.

Gentlemen: You will please take notice that on the 29th day of November, instant, between the hours of 8 o'clock, A. M. and 6 o'clock P. M. of that day, at the house of Hiram M. White, in the town of West Liberty, in Logan county, I shall proceed to take the depositions of Samuel Newell and others; and in case the taking of the depositions aforesaid is prevented by accident on that day, then the same will be taken on the next subsequent day, at the same place, between the same hours, (the taking of the said depositions to be continued from day to day until completed,) and when taken they will be used on the hearing, at which time and place you may attend.

22d November, 1832.

Yours, &c.

B. G. LEONARD,
Solicitor for Complainant.

To MESSRS. CREIGHTON & BOND,
Solicitors for Defendants.

We acknowledge due service by a true copy of the within, this 22d November, 1832.

WM. KEY BOND.

The depositions of the following named witnesses, taken by Peter Stipp, Esquire, one of the justices of the peace within and for the county of Logan, Ohio, at the house of Hiram M. White, in the town of West Liberty, in the said county, on the twenty-ninth day of November, 1832, between the hours of 8 o'clock, A. M. and six o'clock P. M. of that day, and the next succeeding day, which depositions are to be used in evidence on the trial of a certain cause pending in the United States circuit court, the seventh circuit, and Ohio district, on the equity side of the same court, in which cause one Duncan McArthur is complainant, and Mathew Hobson is defendant, pursuant to the enclosed

Notice.

And thereupon Samuel Newell, a witness produced by the complainant, was sworn according to law, and deposed as follows in answer to interrogatories.

Question by S. Mason for the Complainant.

1. Are you acquainted with the military survey No. 6,922, entered in the name of John and Mathew Hobson, of 6,220 acres, lying between Ludlow's and Roberts' lines, in the counties of Champaign and Logan, on Mad river ? if yea, what was the value in the year 1830 of the upper or northerly half of that survey, and what was the value of the first 1,000 acres, and the first 2,000 acres, and the first 3,000 acres of that survey, and what was the value of the whole of that survey, estimating the same in the different modes with and without the improvements thereon ?

Answer by deponent. I have been acquainted with the survey about twenty years. The upper or northerly half at that time I considered was worth two dollars and sixty-six and 2-3 cents per acre. I believe that the value of the first 1,000 acres, commencing on the northern boundary to be thirteen dollars per acre, and the next adjoining thousand acres to be ten dollars per acre, and the next adjoining thousand acres to be nine dollars per acre, and the residue of that survey was worth five dollars per acre, and the average value of the said survey to be seven dollars and seventy-five cents per acre, in the year 1830. The above estimates are made without regard to the improvements made thereon. And as to the value of the survey with the improvements, the town of West Liberty, together with some valuable mills and machines, and a number of farms, and the improvements thereon, I have no means of estimating the value thereof, and therefore I cannot estimate the value of the improvements on the survey.

2d Question by same. Are you acquainted with military survey No. 6,923 and 6,926 of 2,943 acres on Mad river, between Ludlow's and Roberts' lines, in Logan county, in the name of the said Hobson ? if you are, what was the value in the year 1830 of that survey per acre, with and without the improvements thereon ?

Answer by deponent. I have been acquainted with this survey as long as I have been with the other, and this survey adjoins the first mentioned survey on the north, and the value of this survey without any improvements, was in 1830 four dollars and fifty cents per acre. I have resided on a part of this survey for about 23 or 24 years, and as to the value of the improvements, the extent and variety thereof on the said survey are such that I am unable at this time to estimate them, and further this deponent saith not.

SAML. NEWELL.

And at the same time and place came Alexander Black, who being duly sworn by me, according to law, deposeth and saith in answer to the following interrogatories :

Question by same. Will you please to answer the first question above proposed to Samuel Newell ?

Answer by deponent. I have been acquainted with the survey in that question mentioned about 22 or 23 years, and I have resided on a part of the same survey the same length of time. And I believe the upper or north half of the said survey in 1830 was worth ten dollars and sixty-six and 2-3 cents per acre. And the first 1,000 acres, commencing on the north boundary line of said survey, running south, at the same time, was worth thirteen dollars per acre, and the thousand acres next adjoining thereto was worth ten dollars per acre, and the next 1000 acres adjoining to the second was worth nine dollars per acre, and that the residue of the survey was worth five dollars per acre ; and that the average value of the whole of the said survey was seven dollars and seventy-three cents per acre. The above estimates are made without regard to the improvements made thereon. From the extent and variety of the improvements on the said survey I am unable to value them at this time.

Question by the same. Will you please to answer the second question above proposed to Mr. Newell ?

Answer by deponent. I have been acquainted with the survey mentioned in that question about the same length of time I have been with the other ; the two lies adjoining, and I believe that this survey was worth in 1830, without any improvements thereon, four dollars and fifty cents per acre. And from the extent and number of the improvements on the same, I cannot at this time make an estimate of them. And further this deponent saith not.

ALEX. BLACK.

And at the same time and place, came William McBeth, who being by me duly sworn according to law, deposeth and saith, in answer to the following interrogatories:

Question by same. Will you please to answer the first question proposed above to Samuel Newell?

Answer by deponent. I have been acquainted with the survey mentioned in that question, about twenty-two years, and I believe the north half of the said survey was in 1830, worth ten dollars and sixty-six cents and two-thirds per acre; and the first thousand acres adjoining the north boundary line thereof, was worth thirteen dollars per acre; and the next adjoining one thousand acres was worth ten dollars per acre; and that the next one thousand acres adjoining the second, was worth nine dollars per acre, and that the balance of the said survey was worth five dollars per acre, and that the average value of the whole of the said survey was seven dollars and seventy-three cents per acre; the above estimates are made without regard to the improvements made thereon, and with respects to the improvements they are so various and numerous, that I am unable at this time *to* estimate the value.

Question by same. Will you please to answer the second question above proposed to Mr. Newell?

Answer by deponent. I have been acquainted with the survey mentioned in that question, about the same time I have been with the other, and have resided on a part thereof for nineteen years, and I believe that the value of the same in 1830, was without improvement four dollars and fifty cents per acre, and as to the improvements, the extent and variety of which are such that I cannot at this time estimate them; and further this deponent saith not.

WILLIAM McBETH.

And at the same time and place, appeared William Vance, who being by me duly sworn according to law, deposeth and saith, in answer to the following interrogatories.

Question by same. Are the surveys Nos. 6922 and 6923 and 6926, in the foregoing depositions mentioned, the same that were appraised in 1830, by Messrs. Lyne Starling, and Mathew Bonner, and were you present assisting at that appraisement, and what was then and now your opinion of the value of those surveys without the improvements thereon?

Answer by deponent. I believe them to be the same, and I was one of the appraisers and was with them, but did not agree to their valuation, and did not sign their report as to the appraisement of those surveys, I then was and now am of opinion, that the large survey No. 6922, was worth six dollars per acre, taking the whole survey together, but as to the other survey Nos. 6923 and 6926, that it was worth three dollars and fifty cents per acre, taking the whole survey together, the above estimate were and are now made without regard to the improvements on the said surveys; and further this deponent saith not. WILLIAM VANCE.

Continued until Friday, November the 30th, 1832, at the same place and between the same hours, at which time and place came Robert Wilson, who being by me duly sworn according to law, deposes and saith in answer to the following interrogatories.

Question by the same. Are you acquainted with the military survey No. 6922, described in the foregoing depositions, and if you are, state what was the value in the year 1830 of that survey, and particularly the value of the first one thousand acres, commencing at the north end thereof, and running south, and the value of the next one thousand acres, and the value of the next succeeding one thousand acres, each valuation to be made as of the year 1830, and without reference to the improvements thereon ?

Answer by deponant. I am acquainted with that survey, and have known it for three years, and have resided on it the same length of time, and I believe the first one thousand acres commencing on the north end, was worth in 1830, without improvements twelve dollars per acre, and the next adjoining one thousand acres was then worth ten dollars per acre, and the next one thousand acres adjoining the second, was then worth seven dollars per acre, and the residue of the survey was then worth four dollars per acre.

Question by same. Are you acquainted with survey Nos. 6923 and 6926, in the foregoing depositions described, and if so, what was the value of that survey in 1830, without regard to the improvements thereon ?

Answer by deponant. I am acquainted with that survey, and have been as long as I have with the other, and believe it was worth in 1830 without improvements four dollars per acre; and further this deponent saith not.

ROBERT WILSON.

And at the same time and place, came Robert Rule, who being by me duly sworn according to law, deposeth and saith, in answer to the following interrogatories.

Question by same. Will you please to answer the question first above proposed to Mr. Robert Wilson ?

Answer by deponant. I have been acquainted with that survey about three years, and have resided on a part of it the same length of time, and I believe the first one thousand acres beginning on the north boundary line and running south, was in 1830 without improvements worth twelve dollars per acre, and the next adjoining one thousand acres was then worth ten dollars per acre, and the next one thousand acres adjoining the second, was worth seven dollars per acre, and that the remaining part of the survey was worth four dollars per acre.

Question by same. Will you please to answer the second question above proposed to Mr. R. Wilson ?

Answer by deponant. I have been acqainted with that survey as long as I have with the other, and believe that it was in 1830 with-

out improvement worth four dollars per acre; and further this deponant saith not.

ROBERT RULE.

And at the same time and place, came John Enoch, who being by me duly sworn according to law, deposeth and saith in answer to the following interrogatories.

Queston by same. Will you please to answer the first queston above proposed to Mr. Robert Wilson?

Answer by deponant. I have been acquainted with the survey mentioned in that question since the year 1815, and resided on it ever since that time, and I believe that the first thousand acres beginning at the north boundary and running south, was worth twelve dollars per acre without improvements in 1830, and that the next adjoining one thousand acres was then worth nine dollars per acre without improvements, and the next one thousand acres adjoining the second was worth at that time nine dollars per acre without improvements, and the residue of the survey was then worth without improvements five dollars per acre.

Question by same. Will you please to answer the second question, above proposed to Mr. R. Wilson?

Answer by deponant. I have been acquainted with the survey mentioned in that question, about as long as I have been with the other, as they lie adjoining, and I believe that it was in 1830 without improvements worth four dollars and fifty cents per acre; and further this deponant saith not.

JOHN ENOCH.

And at the same time and place came Thomas J. McArthur, who being by me duly sworn according to law, deposeth and saith, in answer to the following interrogatories.

Question by same. Were you constituted an agent by the complainant for the purpose of settling the claim of Matthew Hobson, on the complaint under their contract respecting the location of certain warrants west of Ludlow's line, and did you as such agent, offer the said Hobson survey No. 6923 and 6926, and survey No. 6922, or any part or either of them, and which, and when, was such offer made?

Answer by deponant. I was an agent for the purpose specified in the question, as such agent aforesaid, I did offer Mathew Hobson the whole of survey No. 6923 and 6926, and so much of the upper or northern end of survey No. 6922, as would amount to the value of the barren lands located by Elias Laugham, for the said Hobson, as appraised by Lyne Starling, William Vance, and Mathew Bonner, in the summer of 1830. This offer was made at the time of the appraisement aforesaid in 1830, which offer the said Hobson refused to accept.

Question by same. Are you acquainted with Mathew Bonner, and if so, was he actively engaged in opposition to Duncan McArthur,

during the time he was prosecuting his actions of ejectment against John Reynolds, and Henry Van Meter, in Champaign county, and was he a proper person to have acted as an appraiser, of the lands in controversy ?

Answer by deponant. I am acquainted with Mathew Bonner, I know that he was actively engaged, and was in the employment of Cadwallader Wallace, who was the agent of the Government in the defence of those suits, and he acted as private surveyor to the said Wallace, and executed surveys for him in the said actions, and I know that bad blood existed between the said Bonner and the complainant about that time, and I do not think that the said Bonner was a proper person to act as an appraiser of the lands in controversy, and that he was chosen by Hobson as an appraiser in 1830; and further this deponant saith not.

THOS. McARTHUR.

Cost Bill, Witnesses.

Samuel Newell, 1 day, 50; William McBeth, 1 day, 50; Alexander Black, 1 day, 50; William Vance, 1 day, 50; Robert Wilson, 1 day, 50; Robert Rule, 1 day, 50; John Enoch, 1 day, 50; Thomas J. McArthur, 1 day, 50; justice's fees, 2 50; total, 6 50 —paid by the agent for complainant.

STATE OF OHIO, *Logan County, ss.*

I, Peter Stip, an acting justice of the peace in and for the county aforesaid, do hereby certify that Samuel Newell, William McBeth, Alexander Black, William Vance, Robert Wilson, Robert Rule, John Enoch, and Thomas J. McArthur, was by me sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them subscribed, was reduced to writing by me, and taken at the time and place in the notice specified.

[L. S.] Given under my hand and seal, this 30th day of November, A. D. 1832.

PETER STIP, *J. P.*

THE STATE OF OHIO, *Logan County. ss.*

I, N. Z. McCollock, clerk of the court of common pleas for the county of Logan aforesaid, do certify that Peter Stip, Esqr., before whom the foregoing depositions appear to have been taken, is an acting justice of the peace within and for the county aforesaid, duly elected and qualified as such.

[L. S.] In witness whereof, I have hereunto subscribed my name and affixed the seal of said court at Bellefontaine, this 30th day of November, A. D. 1832.

N. Z. McCOLLOCK, *Clerk L. C. P.*

Clerk's fee, 50 cents, paid by agent for complainant.

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR
vs.
MATHEW HOBSON. } In Chancery.

SIR: Please to take notice, that on the 11th day of December, instant, between 8 o'clock, A. M., and 6, P. M., of that day, at the office of William H. Skerrett, mayor of Chillicothe, in the town of Chillicothe, I will proceed to take the deposition of Cadwallader Wallace, to be used on the hearing of this cause.

B. G. LEONARD,
Solr. for Complainant.

November, 1832.

To M. HOBSON, or his Solicitors.

Service acknowledged, this 10th day of December, 1832.
CREIGHTON & BOND, *Sol.*

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR
vs.
MATHEW HOBSON. } In Chancery.

Deposition of Cadwallader Wallace, taken on the eleventh day of December, in the year of our Lord one thousand eight hundred and thirty-two, between the hours of 8 o'clock A. M. and 6 o'clock P. M. of said day, at the office of William H. Skerrett, mayor of Chillicothe, in the town of Chillicothe, in Ross county, pursuant to the inclosed notice, to be read in evidence in the cause now pending in the United States circuit court, 7th circuit, Ohio district, in chancery, wherein Duncan McArthur is plaintiff, and Mathew Hobson defendant, as follows, to wit:

The said Cadwallader Wallace, being duly sworn according to law, doth depose and say that:

Question by counsel for complainant. Is the document marked (A,) and on which is indorsed "referred to in the deposition of Cadwallader Wallace, taken before me, this 11th November, 1832, (signed) William H. Skerrett, mayor," in the handwriting of Mathew Bonner, and was it prepared for the purpose of transmission to Congress, to resist the passage of a bill to quiet certain claims between Ludlow's and Roberts' lines, and was it transmitted to Congress?

Answer. The paper referred to is in the handwriting of Mathew Bonner, and is believed to be the identical paper transmitted by myself and others for the purpose indicated in the question.

Question by same. Was the object of the document to resist the claim commonly known as the McArthur claim, or the McArthur and Hobson claim, in which Duncan McArthur was principally interested?

Answer. The object was to show that those claims did not lie "betweenthe rivers Scioto and Little Miami," and so far as that fact goes, to resist those claims.

Question by defendant's counsel. Are you acquainted with the country and streams which the document aforesaid professes to represent, and do you believe it a faithful and true representation of the same?

Answer. I am acquainted with the country and streams intended to be represented by the document in question, and believe it to be very nearly a true representation thereof.

Question by same. At whose instance did Mr. Bonner make the plat, and had he any interest in the same, direct or indirect, as far as you know?

Answer. At the instance of Walter Dun and James Galloway, Jr., and myself particularly. He had no interest, direct or indirect, so far as I know or believe.

Question by complainant. Did you not take an active part in resisting the said claim of McArthur?

Answer. I did; and further I say not.

CADWALLADER WALLACE.

Bill of Costs.

Swearing witnesses, 4; deposition, 534 words, 53¼, 57½; witness fee not claimed—paid by complainant.

STATE OF OHIO, *Ross County, ss.*

I, William H. Skerrett, one of the justices of the peace in and for Scioto township, in said county, do hereby certify that Cadwallader Wallace was by me sworn to testify the truth, the whole truth, and nothing but the truth; and that the deposition by him subscribed, was reduced to writing by said Cadwallader Wallace, the deponant, and taken at the time and place in the notice specified.

WM. H. SKERRETT.

The annexed is an exhibit referred to in the foregoing deposition marked (A.)

See Original, page 51.

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN McARTHUR, } In Chancery.
vs.
MATHEW HOBSON. }

SIR: You will take notice, that on the 13th December, instant, I shall take the deposition of John Madeira and Nath'l Sawyier between the hours of 10 o'clock A. M. and 6 P. M. of that day, at the office of Wm. H. Skerrett, Esqr., mayor of Chillicothe, in the town of Chillicothe, to be used on the hearing.

B. G. LEONARD,
Sol. for Complainant.

To MATHEW HOBSON, or his Solicitors.

December 12, 1832.

Served this 12th December, in Chillicothe.

CREIGHTON & BOND,
Sol. for Defendant.

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN McARTHUR } In Chancery.
vs.
MATHEW HOBSON. }

Deposition of John Madeira, taken on the 13th day of December, in the year of our Lord one thousand eight hundred and thirty-two, between the hours of 9 o'clock A. M. and 6 o'clock P. M. of said day, at the office of William H. Skerrett, Esqr., mayor of Chillicothe, in the town of Chillicothe, in Ross county, pursuant to the inclosed notice, to be read in evidence in a cause now pending in the United States circuit court, 7th circuit, Ohio district, in chancery, wherein Duncan McArthur is plaintiff, and Mathew Hobson defendant, as follows, to wit:

The said John Madeira, being duly sworn according to law, doth depose and say:

Question by complainant. Is it your signature and handwriting to the certificate indorsed on the document marked (A?)

Answer. Yes.

Question by same. Were you present at the time specified in the first certificate, signed by yourself and Nath'l Sawyier?

Answer. I was.

Question by same. Did, or did not, Gen'l Duncan McArthur make the propositions specified in the said document marked (A,) at the time aforesaid, when you were present?

Answer. He did.

Question by same. Is the second certificate signed by you, and is the statement therein contained true?

Answer. It was signed by me, and contains what I believe to be true.

Question by complainant. Was the document, marked (A,) prepared and read to you before Gen'l McArthur made the proposition therein contained?

Answer. It was prepared before the propositions were made and read in my hearing.

Question by Wm. K. Bond. Is the word "Vance," contained in your second certificate, on the paper before mentioned, intended to be erased or not; and make the erasure if it be such?

Answer. I do not recollect whether it is intended as an erasure or not; if it is intended as such, I do not recollect whether it was made at the time; and further I say not.

J. MADEIRA.

Bill of costs—swearing witness, 4; deposition, 425 words, 42½; witness fee not claimed, paid by plaintiff.

STATE OF OHIO, *Ross County, ss.*

I, William H. Skerrett, one of the justices of the peace in and for Scioto township, in said county, do hereby certify that John Madeira was by me sworn to testify the truth, the whole truth, and nothing but the truth; and that the deposition by him subscribed was reduced to writing by John Madeira, the deposing witness, and taken at the time and place in the notice specified.

WM. H. SKERRETT.

And thereupon this cause was continued. And afterwards, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and thirty-three, the following deposition, having been previously filed as evidence in this cause, was opened in open court; which deposition is in the words and figures following, to wit:

CIRCUIT COURT UNITED STATES,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR
vs.
MATHEW HOBSON. } In Chancery.

It is agreed that the evidence taken in answer to the following interrogatories shall be received in evidence, in the same manner as if duly taken under a commissioner, agreeably to the rules; all exceptions being waived, except such as relates to the competency of the testimony.

B. G. LEONARD, *Sol. for Complt.*
CREIGHTON & BOND, *Sols. for Deft.*

Question by the Complainant.

Are you acquainted with Mathew Bonner, of Chillicothe, and did he execute any survey or surveys, and for whom, and at whose instance, pending the actions of ejectment in the court of common pleas or supreme court of the county of Champaign, wherein Duncan McArthur was the lessee of the plaintiff and John Reynolds and Henry Van Meter were the defendants; and, particularly, did he plat the survey now shown to you, marked (A)?

2. Question by same: Does the plat of the survey to which you have just referred represent truly the source or head of the Scioto river, or does it contain such a representation of all the ponds and streams as is necessary to lead to the discovery of the source of that river? Is there any deficiency or inaccuracy in the representation, and if so, in what does that deficiency or inaccuracy consist? State the particulars.

3. Question by the same: Were you county surveyor for the county of Champaign during the pendency of the actions aforesaid, and as such, did you execute any survey or surveys for the parties in those suits or either of them; and, particularly, did you execute a survey, now shown to you, marked (B), and does this plat represent truly the heads or sources of the Scioto river?

4. Question by same: Were you and Mr. Mathew Bonner in company at any time while you were engaged in examining the country, to find the sources of the Scioto river, and did he know of the existence of all the streams, ponds, and other objects laid down on the plat of the survey by you made as aforesaid; and, particularly, had he examined and surveyed the creek or stream called the "Willow branch," and the points connecting its waters with those discharged through the "Wallace branch?"

5 Question by same: Did Mathew Bonner take an active part in opposition to the claims of the complainant, between Roberts' and Ludlow's line, and did a quarrel or personal ill-will arise between said Bonner and complainant, out of the prosecution of those claims?

6th. Question by same: Do you not know, from your survey of the upper branches or forks of the Little Miami river, that what is called the East fork of that river, which heads near the southerly ends of Ludlow's and Roberts' lines, is, by its meanders, longer than that fork thereof which is called the Judy fork; and at its junction with the Judy fork exhibit a much larger channel, and discharge much more water than the Judy fork? And does not the East fork drain a much larger tract of country or quantity of land than the Judy fork; and are not these two forks, as to the length of meanders, quantity of water, and quantity of land drained by them respectively, truly represented in your certificate attached to and accompanying your said survey, marked (B), referred to in your answer to the 3d question?

The deposition of Aaron L. Hunt, taken at the office of S. Mason, in the town of Springfield, in Clark county, Ohio, on Monday, the 3d day of June, A. D. 1833, between the hours of 2 and 4 o'clock, P. M., of that day, before Reuben Miller, Esq., a justice of the peace of said county, to be read in evidence on the trial of a certain cause now pending in the circuit court United States, 7th circuit, in the district of Ohio, on the chancery side of the same court, wherein Duncan McArthur is complainant and Mathew Hobson is defendant; said deposition being taken on the part of the complainant, pursuant to the agreement between the solicitors for the parties, which is annexed to the interrogatories enclosed and attached hereto.

And the said Aaron L. Hunt, being sworn, according to law, deposeth and saith, in answer to the first interrogatory.

Answer. I am acquainted with Mathew Bonner, of Chillicothe; he did not execute any survey or surveys that I know of in the suits referred to in the question. Mr. Bonner assisted me in making out a plat of the survey I made under the directions of Cadwallader Wallace, under an order of the court in the suits referred to. The plat now shown me, marked A, appears to be a copy of a plat of a survey that I executed under the direction of C. Wallace, as aforesaid, and is in the handwriting of the said Bonner.

Answer to the 2d question. I cannot undertake to fix the precise spot where the head of that river is. This map does not show the Willow branch and the streams putting into it; nor does it show the connection of the waters flowing from the Willow branch into the Wallace fork; at the point on this map marked G, there is an old beever dam, and considerable pond some distance up the said Willow branch.

Answer to the 3d question. Answer—I was county surveyor of Champaign county at the time mentioned, duly commissioned, sworn, and as such surveyor I executed sundry surveys for the parties in the suits mentioned above. The plat now shown me, marked B, is a correct plat or map of a survey made by me under the direction of Gl. Duncan McArthur, in the suits aforesaid; and this plat represents truly all the upper branches of said Scioto river.

Answer to 4th question. Mr. Bonner was with me a good part of the time that I was engaged executing the surveys aforesaid, but he was not with me when I meandered the said Willow branch, I think. I do not know that he, Bonner, was acquainted with all the streams, ponds, and other objects laid down on the plat marked B.

Answer to the 5th question. Mathew Bonner attended the execution of said surveys, at the instance of Cadwallader Wallace, and in his absence acted as his agent in directing the survey. I think there was bad feeling between Gl. McArthur and Mr. Bonner, but I did not know of their having a quarrel.

Answer to the 6th and last question. My certificate attached to said plat marked B, is a correct statement of facts, and the best answer I can make to this question; and further this deponent saith not.

AARON L. HUNT.

I, Reuben Miller, a justice of the peace within and for the county of Clarke, do hereby certify that Aaron L. Hunt was by me affirmed to testify the truth, the whole truth, and nothing but the truth; and that the deposition by him subscribed was reduced to writing by himself, and taken at the time and place in the caption specified.

REUBEN MILLER,
Justice of the Peace.

Justice's fees, 56 1-4; witness fees, 50; $1 06 1-4; paid by S. Mason, for complainant.

THE STATE OF OHIO, *Clarke County, ss.*

I, Saul Henkle, clerk of the court of common pleas of the county aforesaid, do certify that Reuben Miller, Esq., before whom the foregoing deposition appears to have been taken, and whose name is subscribed above, was, at the time of the date thereof, and still is, an acting justice of the peace within and for said county, duly commissioned and sworn into office, and to whose official acts as such full faith and credit are due, as well in courts of justice as thereout.

In testimony whereof, I have hereunto set my hand and [L. S.] affixed the seal of said court, at Springfield, this 4th day of June, 1833.

SAUL HENKLE, *Clerk.*

Clerk's fees, 50 c., paid by S. Mason, for complainant.

The annexed are exhibits referred to in the foregoing deposition, marked (A. and B.)

See Original, page 51.

And thereupon it is ordered that the complainant have leave to amend the bill, by striking out one of the proffers and offers made

therein by the complainant, as also some portion of the specific prayer, by erasure, and inserting the following amendment: "And your orator is ready and willing on his part to abide by such decree in the premises, and to perform such decree in such manner as shall be directed by this honorable court;" and also the word "grant," a part of the prayer of general relief, which is now done accordingly.

Question of costs reserved.

And afterwards, to wit, at the December term of said court, in the year last aforesaid, this cause was continued.

And afterwards to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and thirty-four, came the parties, by their counsel, and thereupon the following exhibits were filed as evidence in this case, to wit:

It is hereby agreed upon between Duncan McArthur, of Ross county, and State of Ohio, of the one part, and John Hobson, of Jackson county, and State of Georgia, and Mathew Hobson, Oglethorpe county, and State of Georgia, aforesaid, of the other part: Witnesseth, that whereas eleven thousand six hundred and sixty-six and 2-3 acres were sent to Col. Richard C. Anderson's office, on or about the first inst., by Col. Elias Laugham, in the name and for the use of said John and Mathew Hobson, with entries for the same: Now be it known, that it is hereby understood and agreed upon by the contracting parties that said McArthur is to withdraw ten thousand acres of the said 11,666 2-3 acres, and to re-locate the said ten thousand acres elsewhere, in the name of said John and Mathew. And it is further agreed upon by the contracting parties, that the land from which said ten thousand acres is to be withdrawn, as located by Elias Laugham, and also the land so to be re-entered by said McArthur, is to be valued by two disinterested men, one to be chosen by each of the contracting parties; and if the said two men cannot agree on the price of such lands, or any part thereof, the said two men are to choose a third man, who, together with the other two, shall agree on the price of said land; and the said Hobsons are to have so much of said land so to be re-located by said McArthur, as will amount to the value of the land from which said warrants shall have been removed, and also land to the amount and value of two thousand dollars, in addition to the value of the ten thousand, when the same was entered by Elias Laugham; and the said John and Mathew Hobson doth hereby bind and obligate themselves, their heirs, executors, and administrators, separately and jointly, to convey unto the said McArthur, his heirs, &c., all and singular the balance of said ten thousand acres, after deducting therefrom such quantity as by valuation as aforesaid will amount to the value of the said ten thousand when the same was first located by said

Laugham; and also land to the value of two thousand dollars, as aforesaid. And it is further understood and agreed upon, that if the lands located by said McArthur should not be valued to the amount of the land so located by said Laugham, and also two thousand dollars, then and in that case said McArthur is to convey unto the said John and Mathew, their heirs, &c., other land to the amount of said valuation, with the value of two thousand dollars in land, as aforesaid; said Hobsons to pay all office fees and surveying expenses. Said valuation to take place on or before the expiration of three and one half years from the date hereof. Said Hobsons to pay the taxes on said lands until divided, and then the said McArthur to pay to the said Hobsons his proportional part of said taxes.

In witness whereof, we, the contracting parties, do hereunto set our hands and seals, this 10th day of November, A. D. 1810.

Be it remembered, before signing, that the division of said lands shall take place forthwith after the titles are considered secure, and that the lands located by Laugham are to be picked, as he upon his honor intended.

DUNCAN McARTHUR, [L. S.]
JOHN & M. HOBSON. [L. S.]

Witness: E. LAUGHAM,
EDWARD BASKERVILLE.

I, John Hobson, of the county of Jasper, in the State of Georgia, for and in consideration of the sum or three thousand seven hundred and fifty dollars ($3,750) to me in hand paid, the receipt whereof is hereby acknowledged, do by these presents give, grant, bargain, sell, assign, transfer, and relinquish unto Duncan McArthur, of the county of Ross, in the State of Ohio, his heirs and assigns forever, five thousand acres of Virginia military land warrants, granted for services in the continental line to John Hobson and Mathew Hobson, assignees, being two thousand two hundred eighty-three and one-third acres, (2,283 1-3 acres,) the one-half of warrant No. 5,878, at this time appropriated by the entries (in Col. Richard C. Anderson's office,) numbered 6,913, 6,914, 6,915, and 6,922, two thousand three hundred and sixteen acres and two-thirds of an acre, the one-half of warrant No. 5,879, at this time appropriated by the entries (in Col. R. C. Anderson's office,) numbered 6,922, 6,923, and 6,926, and four hundred acres, the one-half of that part of warrant No. 5,876, at this time appropriated by the entry (in the office aforesaid,) numbered 6,926.

In witness whereof, I have hereunto signed my name, and affixed my seal at Chillicothe, in the State of Ohio, the 24th day of November, 1818. [L. S.]

Signed JOHN HOBSON.

Attest:
CADWALLADER WALLACE,
SILVANUS BOURNE,

I certify that the foregoing is a true copy of the original now on file in this office.

In testimony whereof, I have hereunto set my hand, and cause to be affixed the seal of the General Land Office, this 23d day of August, 1830.

[L. S.]

JNO. M. MOORE,
Acting Commissioner.

And afterwards, to wit, in the same term of July, to wit, Tuesday, July 22d, this cause coming on for hearing on bill, answer, exhibits, and depositions in the case, and the same being seen and examined by the court, they find that the substantial allegations of the bill are supported by the proof. And due deliberation thereupon being had after argument of counsel, they are of opinion that the appraisement made by Mathew Bonner and Lyne Starling on the re-located entries and surveys made by said McArthur in the name of John and Mathew Hobson is void, and it is therefore ordered and decreed that the same be, and the same is hereby set aside and annulled. And it is further ordered and decreed that the said McArthur shall within thirty days after the rising of the court propose to the said Hobson or to Wm. Key Bond, his counsel of record, to choose on the part of him, the said Mathew Hobson, within sixty days after the making of said proposal, a disinterested man to value so much of the land so as aforesaid re-located and surveyed by said McArthur as will amount to the sum of nine thousand two hundred and fifty dollars, (which sum of $9,250 is equal to one-half of the appraised value of the entries made by Elias Laugham and withdrawn by McArthur, as the same were valued on the 10th of September, A. D. 1830, by Vance, Bonner, and Starling, and one thousand dollars in addition,) and the said McArthur is directed to choose within sixty days after the proposal so to be made by him to said Hobson a disinterested man to value the land aforesaid on his part, in pursuance of the contract in the bill mentioned and therein exhibited, and within that time to give notice of such choice to said Hobson or his counsel of record, and if the said Mathew Hobson shall neglect or refuse by himself or his counsel of record to choose a man on his part to value said land, and within said sixty days to notify said McArthur or his counsel of record of said choice, then the said McArthur, on forthwith thereafter depositing in the Branch Bank of the United States in the city of Cincinnati to the credit of the said Mathew Hobson the said sum of nine thousand two hundred and fifty dollars without interest, or if at any time on or before the expiration of said sixty days he shall have paid to the said Hobson the sum of $9,250 in money without interest, he, the said McArthur, shall be entitled immediately thereafter to require and have from said Mathew Hobson a conveyance to him, (said McArthur,) of all the right, title, and interest of him, the said Mathew Hobson, in and to said ten thousand acres of land so as aforesaid re-located and surveyed by said McArthur in the

name of the said John and Mathew Hobson, and it is further ordered and directed that in case said appraisers shall be choosen by said Mathew Hobson and Duncan McArthur within the time herein before directed, then and in that case the said McArthur shall within twenty days after said appraisers are chosen notify the said appraisers, and also the said Mathew Hobson or his counsel of record to proceed at the end of thirty days from the time of such notice to make said valuation, and the said men so to be chosen shall on actual view and examination appraise in cash the value without improvements on the 10th day of September, A. D. 1830, of such and so much of said land as shall be selected, designated, and pointed out by said McArthur to said appraisers as will amount to the said sum of nine thousand two hundred and fifty dollars, which valuation shall be at the time of making thereof reduced to writing and signed by said appraisers, and shall contain a special description of the land so as aforesaid valued and set apart to the said Mathew Hobson, to the end that the same may be identified and known, and a copy of said valuation shall be by said appraisers forthwith delivered to either party requesting the same, or to his authorized attorney, and the said Duncan McArthur shall make return thereof to this court on the first day of its next term, for the further and final order of the court thereupon. And if the said appraisers cannot agree on the value of the land so to be selected by said McArthur or any part thereof, they, the said appraisers, shall forthwith choose a third man, who, together with the other two shall agree on the price of said land about which said two men so to be chosen by the parties shall have disagreed. And the said appraisers in making said valuation shall conform themselves in all other respects to the provisions of the said contract between said McArthur and the said Hobson's. And it is further ordered that neither party shall be at liberty to choose the men heretofore chosen by them to make said valuation, nor shall the said appraisers in case of disagreement choose the same man heretofore chosen as a third man. And this cause is ordered to be continued till the next term of the court, for a further and final decree in the premises.

And afterwards, to wit, at the December term of said court in the year last aforesaid, the complainant, by his counsel, filed the following statement, to wit:

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR
vs.
MATHEW HOBSON. } In Chancery.

Benjamain G. Leonard, of counsel for the complainant, professionally states that he was informed by his client, the said Duncan, substantially to the following effect: that a few days

before the commencement of the session of this court he, the said Duncan, on search could not find the paper and document hereinafter specially described and set forth; that thereupon he commenced a careful examination, and searched in every quarter where he thought the said document could be found, and the said search was entirely fruitless, and he, the said Duncan, believed the same was lost or destroyed. The said document contained an agreement between the parties after the institution and during the pendency of this suit before the same was removed to this court relative to the obtaining the money appropriated by Congress as specified in the bill for the lands appropriated by the warrants also specified in the said bill; that by its terms a certain sum of money, $11,500, was to be paid by McArthur to Hobson, and the said suit in chancery was to proceed in the same manner as if the same were not paid, and if in that suit or any other suit finally disposing of the matter a greater sum was awarded to the said Hobson, McArthur was to pay the same, and if a less sum, Hobson was to pay McArthur the difference between the said $11,500 and the less sum aforesaid; that the said document was drafted by the present counsel for the defendant, Wm. Key Bond, Esquire; that amendments were made therein by the said Leonard as counsel for McArthur; that the said Bond is a witness to the said article, and that a receipt for the said sum of $11,500 is annexed thereto on the terms contained in the article aforesaid, to which receipt the said Bond is also a witness; that a counterpart of the said article is now in the possession or under the control of the said Bond, and was not, as the said Leonard understands, placed in the possession of the said Bond for the purpose of being used in this suit or in any other suit, or left in his possession as counsel at law for the said Hobson, (but for this matter he must refer to the more particular statement which may be made by the said Bond,) and must be held as placed in the hands of the said Bond as agent of Hobson, (submitting this question to the decision of the court.)

B. G. LEONARD.

STATE OF OHIO, *ss.*

Duncan McArthur being duly sworn deposeth and saith, that the matter set forth in the foregoing statement of Benjamin G. Leonard, relative to the loss of the article of agreement between him, the said McArthur & Hobson and the search made by him therefor, and the loss or destruction thereof is true.

DUNCAN McARTHUR.

Sworn to and subscribed in open court, Dec. 17, 1834.

WM. MINER, *Clerk.*

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR }
vs.
MATHEW HOBSON. }

It is agreed that the within professional statement of Benjamin G. Leonard shall be received in evidence in the same manner as if duly sworn to by the said Leonard, and so much thereof as contains a representation of the statements of the said McArthur in the same manner as if his statements were duly sworn to by himself.

SWAN & BOND,
Silicitors for Defendant.

And thereupon, the complainant moves the court to order and direct William Key Bond, Esq. to produce to the court on the final hearing of this cause, the article of agreement and receipt thereto annexed, between McArthur and Hobson, specified in the statement made by Benjamin G. Leonard herein, or that the court direct process to issue for the purpose of compelling the said Bond to appear and produce the same on the said hearing, and that the court order and direct the said Bond to testify relative to the said article, the receipt annexed thereto, or either of them, the execution thereof and their contents, and that the said complainant have leave to file interrogatories to the said Hobson, relative to the execution and contents of the said article and receipt, and the payment of the money specified therein, and that the said Hobson be required to answer the same under oath: and this cause is continued.

And now at this day to wit, the time and place first herein aforesaid mentioned, came the parties by their counsel aforesaid, and thereupon the complainant filed in court here, the following agreement, to wit:

Whereas, on the tenth day of November, in the year of our Lord eighteen hundred and ten, a contract was entered into, by and between John and Mathew Hobson of the one part, and Duncan McArthur of the other part, providing for the withdrawal of certain entries of land warrants, and the re-location of the same, as by reference to said contract will appear. Since which time the said John Hobson has transferred his interest in the said contract to the said Duncan McArthur: And, whereas, the 26th May, eighteen hundred and thirty, the Congress of the United States passed and enacted a certain statute, in virtue of which it is competent for the parties to the aforesaid contract, as holders and owners of the re-entries made under said contract, to relinquish the same to the United States, and receive therefor the amount at which the lands included in such entries were valued by an inquest ap-

pointed by the United States, with interest, as per the statute will appear.

And, whereas the said Duncan McArthur and Mathew Hobson are each willing to make such relinquishment to the United States, and to avail themselves of the benefits of the said act of Congress, but have disagreed about their respective rights under the said contract first herein referred to; in consequence of which disagreement the said Duncan McArthur has recently instituted a certain suit in chancery, in the supreme court of the State of Ohio, in and for Ross county, and, among other things, obtained an injunction in said cause, restraining the said Mathew Hobson from receiving any money under the said act of Congress until the matter can be inquired into, as by reference to the said suit will fully appear.

And, whereas, the said parties are mutually willing and anxious that the said money so appropriated by the said act of Congress, or such part of it as would await the determination of the controversy aforesaid should not remain inactive, and therefore wish to put the whole matter in such state as will make the fund available and profitable pending their said controversy, but without in any way or manner affecting or being held or interpreted as affecting their said controversy; in order to accomplish which it has been determined and arranged that the said Mathew Hobson shall assign and transfer to the said Duncan McArthur all the interest of the said Mathew Hobson of, in, and unto the said entries and warrants in such way as will enable the said Duncan McArthur to receive from the United States the monies aforesaid; out of which said money the said Duncan McArthur shall at once pay to the said Mathew Hobson the sum of eleven thousand five hundred dollars, and retain the balance of the same in his, the said Duncan McArthur's possession. And the said Duncan McArthur hereby covenants to and with the said Mathew Hobson that if in the said suit, so instituted as aforesaid, it shall be held, adjudged, decreed, or determined that the said Mathew Hobson, his heirs or assigns, executors or administrators, was, is, or are, were or shall be entitled to any greater portion of the said money, directly or indirectly, than the said sum of eleven thousand five hundred dollars, then and in such case he the said Duncan McArthur, his heirs, executors or administrators, shall and will pay to the said Matthew Hobson, his heirs, executors, administrators or assigns, at the Bank of Chillicothe, any such excess over and above said sum, together with interest on such excess from this day. And the last mentioned covenant shall be held as embracing any judgment, order, or decree, which may produce the result before mentioned, whether made and rendered in the suit aforesaid, or in any other suit, or before any other tribunal, founded on the same subject matter or contract. And the said Mathew Hobson does hereby covenant to and with the said Duncan McArthur, that in case it shall be determined, held, ordered, adjudged, or decreed in the said suit, or before any

other tribunal finally decided, in a suit founded on the same subject matter, that he, the said Mathew Hobson, was entitled to a less sum than the aforesaid sum of eleven thousand five hundred dollars, then and in such case, he, the said Mathew Hobson, his heirs, executors, or administrators, shall and will refund and pay to the said Duncan McArthur, his heirs, executors, administrators or assigns, at the Bank of Chillicothe, the said amount so received by him beyond what he was or is entitled to, with interest thereon from this day. The said parties mutually agree and covenant that this contract and arrangement shall not be used by either of them, nor at any time held or interpreted in the suit aforesaid, or in any other suit, or in any other court, or in any proceedings, whether in court or out of court, under the aforesaid contract, as affecting, changing, or in anywise disturbing the rights of either in the matters aforesaid; but the suit aforesaid shall be conducted, and any other suit which either of them may think proper to bring, founded on the contract aforesaid, may and shall be conducted in all respects as though this contract had not been entered into.

In testimony whereof, we the said Matthew Hobson and Duncan McArthur, the parties to the foregoing contract, have hereto set their hands and seals, the twenty-fifth day of September, 1830.

MATHEW HOBSON. [L. S.]
DUNCAN McARTHUR. [L. S.]

Signed, sealed, and delivered in presence of
WM. KEY BOND.
JOHN L. TAYLOR.

I, Mathew Hobson, above named, having received from Duncan McArthur, abovenamed, the sum of eleven thousand five hundred dollars, have assigned, transferred, and conveyed to him all my interest in the warrants and entries referred to in the within agreement, pursuant to the same, and subject to the understanding within contained, I therefore request and direct that the whole of the sum of money, now so to be paid under the act of Congress within named to the several claimants under the same act, be paid to the said McArthur, notwithstanding the suit and injunction within named, or any difficulty and dispute between the said Hobson and McArthur relative to the within specified matters.

M. HOBSON.

Witness:
WM. KEY BOND.
JOHN L. TAYLOR.

In pursuance of the foregoing agreement, received of Matthew Hobson, an assignment of the five thousand acres of land warrants therein mentioned.

DUNCAN McARTHUR.

Witness:

WM. KEY BOND.
JOHN L. TAYLOR.

September 25, 1830.

Upon the foregoing agreement was the following endorsement, to wit:

UNITED STATES CIRCUIT COURT,
Ohio District.

DUNCAN McARTHUR
vs.
MATTHEW HOBSON. } July Term, 1835.

This document was exhibited by complainant in evidence, at this term, only for the purpose of showing the payment of the money mentioned in the interlocatory decree by McArthur to Hobson. It was objected to by defendant, July 18, 1835.

Attest: WILLIAM MINER, *Clerk.*

And thereupon the following agreement was filed, to wit:

CIRCUIT COURT UNITED STATES per OHIO.

DUNCAN McARTHUR
vs.
MATHEW HOBSON.

It is agreed that, within thirty days after the close of the July term of this court, 1834, Gen'l Duncan McArthur, by letter addressed to Wm. K. Bond, Esqr., the counsel of record for the defendant in this suit, did request and propose that the defendant, Hobson, would, within sixty days thereafter, appoint, as per exhibit herewith made, marked A, on his part, a disinterested man, to value so much of the lands mentioned in the interlocutory decree of that term, and thereby directed to be revalued as would amount to the sum of $9,250.

It is further agreed that the said McArthur did, within thirty days from the rising of the court at that term, name and appoint, as per exhibit marked A, as aforesaid, in the manner directed in said decree to said Wm. K. Bond, Esqr., as appraiser on his part, one Samuel Newell.

It is further agreed that said Samuel Newell is the same person whose deposition is on file in this case, for the contents of which, reference is thereto had; and that said Wm. K. Bond, within sixty

days after said nomination of said Newell as an appraiser for said McArthur, objected against said appointment on the ground that said Newell was not a disinterested appraiser, by reason of his having given said deposition in this cause.

It is further admitted, that said McArthur has not named any other appraiser, and that said Hobson, on his part, hath not named an appraiser.

July 17, 1835.

SAM'L F. VINTON,
For Complainant.
WM. KEY BOND,
Solicitor for Defendant.

Exhibit marked A, referred to in the foregoing Agreement.

To MATHEW HOBSON or WM. KEY BOND,
Attorney of said Hobson.

SIR: In pursuance of the decree, a copy of which is hereto annexed, I now propose to you, and request you to choose an appraiser, within sixty days from this date, to appraise so much and such of the lands re-located by me, in the name of John and Mathew Hobson, as will amount to the sum of $9,250, and which will be by me selected, designated, and pointed out to the appraisers; and I hereby notify you that, in pursuance of the directions of said decree, I have chosen, and do hereby choose, on my part, Samuel Newell, of Logan county, to be and act as an appraiser for me; and if the said Newell should refuse to act, I will give you due notice of such refusal, and forthwith choose another person in his stead to act as an appraiser for me.

DUNCAN McARTHUR.

July 25th, 1834.

Decree.

DUNCAN McARTHUR
vs.
MATHEW HOBSON. } In Chancery.

This cause coming on for hearing on bill, answer, exhibits, and depositions in the case, and the same being seen and examined by the court, they find that the substantial allegations of the bill are supported by the proof, and due deliberation thereupon being had, after argument of counsel, they are of opinion that the appraisment made by Mathew Bonner and Lyne Starling, of the re-located entries and surveys made by said McArthur, in the name of John and Mathew Hobson, is void; and it is therefore ordered and decreed, that the same be and is hereby set aside and annulled.

And it is further ordered and decreed, that the said McArthur shall, within thirty days after the rising of this court, propose to the said Hobson, or to Wm. Key Bond, his counsel of record, to

choose, on the part of him, the said Mathew Hobson, within sixty days after the making of said proposal, a disinterested man, to value so much of the land so as aforesaid re-located and surveyed by said McArthur, as will amount to the sum of nine thousand two hundred and fifty dollars, (which sum of $9,250,) is equal to one-half of the appraised value of the entries made by Elias Laugham, and withdrawn by McArthur, as the same were valued, on the 10th of September, A. D. 1830, by Vance, Bonner, and Starling, and one thousand dollars in addition; and the said McArthur is directed to choose, within sixty days after the proposal to be made by him to said Hobson, a disinterested man, to value the land aforesaid on his part, in pursuance of the contract in bill mentioned and therein exhibited; and within that time to give notice of such choice to said Hobson or his counsel of record; and if the said Mathew Hobson shall neglect or refuse, by himself or his counsel of record, to choose a man on his part to value said land, and, within said sixty days, to notify said McArthur, or his counsel of record, of said choice; then the said McArthur, on forthwith thereafter depositing in the Branch Bank of the United States, in the city of Cincinnati, to the credit of the said Mathew Hobson, the said sum of nine thousand two hundred and fifty dollars, without interest; or if, at any time on, or before the expiration of said sixty days, he shall have paid to the said Hobson the sum of $9,250 in money, without interest, he the said McArthur shall be entitled, immediately thereafter, to require and have, from said Mathew Hobson, a conveyance to him (said McArthur) of all the right, title, and interest of him, the said Mathew Hobson, in and to said ten thousand acres of land so as aforesaid re-located and surveyed by said McArthur, in the name of the said John and Mathew Hobson.

And it is further ordered and directed, that in case said appraisers shall be chosen by said Mathew Hobson and Duncan McArthur within the time herein before directed, then, and in that case, the said McArthur shall, within twenty days after said appraisers are chosen, notify the said appraisers, and also the said Mathew Hobson, or his counsel of record, to proceed, at the end of thirty days from the time of such notice, to make said valuation; and the said men, so to be chosen, shall, on actual view and examination, appraise in cash, the value, without improvements, on the 10th day of September, A. D. 1830, of such and so much of said land as shall be selected, designated, and pointed out by said McArthur to said appraisers, as will amount to the said sum of nine thousand two hundred and fifty dollars; which valuation shall be, at the time of making thereof, reduced to writing, and signed by said appraisers, and shall contain a special description of the land so as aforesaid valued and set apart to the said Mathew Hobson, to the end that the same may be identified and known; and a copy of said valuation shall be, by said appraisers, forthwith delivered to either party requesting the same, or to his authorized attorney; and the said Duncan McArthur shall make return thereof to this court, on the

first day of its next term, for the further and final order of the court thereupon; and if the said appraisers cannot agree on the value of the land so to be selected by said McArthur, or any part thereof, they, the said appraisers, shall forthwith choose a third man, who, together with the other two, shall agree on the price of said land about which said two men, so to be chosen by the parties, shall have disagreed; and the said appraisers, in making said valuation, shall conform themselves, in all other respects, to the provisions of the said contract between said McArthur and the said Hobson.

And it is further ordered, that neither party shall be at liberty to to choose the men heretofore chosen by them to make said valuation, nor shall the said appraisers, in case of disagreement, choose the same man heretofore chosen as a third man.

And this cause is ordered to be continued till the next term of the court for a further and final decree in the premises.

And the defendant filed the following exceptions, to wit:

UNITED STATES CIRCUIT COURT,
Seventh Circuit, Ohio District.

DUNCAN MCARTHUR, Complainant
vs.
MATHEW HOBSON, Respondent. } In Chancery.

The defendant objects to the appointment of Samuel Newell as an appraiser under the decree pronounced herein at July term, 1834, because said Samuel Newell has been and was used by the complainant in this cause as a witness to prove the value of the lands now to be appraised, for which, see his deposition on file, of all which, complainant was duly notified, as appears by the agreement already on file. The defendant objects and protests against the complainant using in this cause for any purpose whatever. The agreement between complainant and defendant, dated the 25th September, 1830, and now produced in court by complainant, because there is an express covenant that it shall not be used contained in the body of said agreement, July term, 1835.

WM. KEY BOND,
Sol. for Defendant.

And thereupon, the court entered their decree as follows, to wit:

This cause coming on for final decree, exhibits and agreement of counsel, and the court having heard counsel thereon, and being fully advised thereof, are of opinion that the complainant McArthur has complied on his part with the interlocutory decree, and that the said respondent Mathew Hobson has altogether neglected to choose on his part, an appraiser to value the land referred to and specified in the said interlocutory decree agreeably to the same, and that the sum of nine thousand two huudred and fifty dollars (9,250,) have heretofore been paid by the said McArthur to the said

Hobson, which is considered by the court a substantial compliance with the said interlocutory decree, to wit: on the 25th September, 1830, as by the receipt of the said Matthew Hobson, annexed to his and McArthur's agreement of that date filed in this cause, at this term by the said McArthur appears.

It is therefore ordered, adjudged and decreed by the court, that the said Mathew Hobson do within sixty days after the rising of this court, by a good and sufficient deed of conveyance in law, convey, transfer and assign to the said complainant Duncan McArthur, his heirs and assigns, all his, the said respondent Mathew Hobson's right, title and interest in, and to the said ten thousand acres of land re-located and surveyed by the said Duncan McArthur, in the name of John and Mathew Hobson, as in the bill, proceedings and interlocutory decree herein is specified, with clauses of warranty against all acts done or suffered by him, said Mathew, since the original agreement entered into between the said McArthur and Mathew and John Hobson, as set forth in the bill, and in case the said Matthew shall fail to comply with this decree within the time limited as aforesaid, then and in such case, that this decree shall operate as such conveyance.

And it is further ordered, adjudged and decreed, that the respondent pay the costs of this suit, and that in default thereof, that execution issue as in judgments at law. Costs taxed to $109 62. And afterwards, to wit: At the July term of the court aforesaid, begun and held on the first Monday of July, Anno Domini, 1840. The said Matthew Hobson, now comes into court by his solicitor Mr. Stansbury, and moves the court to allow him an appeal to the Supreme Court of the United States, from the decree rendered against him in favor of Duncan McArthur, at the July term, A. D. 1835, of this court; and thereupon it appearing to the court, that since the rendition of said decree, the said Duncan McArthur has departed this life intestate; and that the matter of said decree touches the realty alone—and the court being further satisfied, that the matter in controversy exceeds the value of two thousand dollars, it is ordered that the said Mathew Hobson be allowed his appeal, upon giving bond within sixty days from this day, to the heirs at law of said McArthur, in the penal sum of $2,000, to the satisfaction and approval of the clerk.

Bond.

Know all men by these presents, that I, Cadwallader Wallace, am held and firmly bound unto Allen C. McArthur, James D. Mc Arthur, effie coonns, Mary Trimble, Eliza Anderson, Francis Walke and John Kercheval, heirs at law of Duncan McArthur, deceased, in the penal sum of two thousand dollars, to the payment of which well and truly to be made, I do hereby bind myself, my heirs, executors and administrators, sealed with my seal and dated this tenth day of July, A. D. eighteen hundred and forty.